



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/24/0339**

**Re: Property at 1/1 4 Leighton Street, Glasgow, G20 9AH (“the Property”)**

**Parties:**

**Lowther Homes Limited, Wheatley House, 25 Cochrane Street, Glasgow, G1 1HL (“the Applicant”)**

**Mr William Murray, 1/1 4 Leighton Street, Glasgow, G20 9AH (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Frances Wood (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought to evict the Respondent from the property.**

**Background**

1. The Applicant submitted an application under Rule 109 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondent from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 19 June 2024 informing both parties that a CMD had been assigned for 30 July 2024 at 2pm, which was to take place by conference call. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make a decision

today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 10 July 2024. No written representations were received by the Tribunal.

4. On 29 July 2024, the Tribunal received an email from the Respondent requesting a postponement of the CMD to enable him to seek representation. On the same day, the Tribunal received an email from the Applicant's representative advising that the request to postpone the CMD was opposed.
5. On 30 July 2024, the Tribunal sent an email to the Respondent advising that the Tribunal had not made a decision about the postponement request and advising that the CMD would proceed at 2pm. The Respondent was advised that he was expected to take part in the discussion.

#### **The case management discussion – 30 July 2024**

6. The CMD took place by conference call. The Applicant was represented by Mr David Adams, solicitor. The Respondent did not join the call and the discussion proceeded in his absence. This case called alongside a related case which proceeds under chamber reference FTS/HPC/CV/24/0341. The Tribunal explained the purpose of the CMD. The Applicant's representative explained that there is a long history of engagement with the Respondent. The Respondent has been consistently in arrears of rent since October 2020. The Respondent has made a couple of lump sum payments to the rent account over the years to reduce rent arrears, but subsequent payments have been missed which has caused rent arrears to increase again. The Respondent also obtained a payment of £1,607.40 through the tenant grant fund. The present balance of rent arrears is £11,231.42. The Respondent is believed to have lost his employment on 10 July 2024 and he is believed to live alone in the Property.

#### **Findings in Fact**

7. The parties entered into a private residential tenancy which commenced 24 June 2019.
8. The Applicant served Notice to Leave on the Respondent personally on 3 July 2023.
9. The Respondent has accrued rent arrears which equate to more than 6 months' rent.

#### **Reason for Decision**

10. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicant relied upon ground 12A of the Private Housing (Tenancies) (Scotland) Act 2016. The Respondent did not

lodge any written representations and failed to participate in the CMD. The information before the Tribunal was that the Respondent has been consistently in arrears of rent since October 2020. Although the Respondent has engaged with the Applicant at times, he has not maintained the agreed payments. There was no material before the Tribunal to indicate that the Respondent disputed the rent arrears. The Applicant had complied with the pre-action protocol. The Tribunal was satisfied that ground 12A was established. The Respondent has been given fair notice of these proceedings. The equivalent of more than 19 months' rent is outstanding. The Respondent has made many proposals for payment and has failed to adhere to the proposals. Payment of rent is the Respondent's primary responsibility and he has not fulfilled that responsibility. The tenancy appears to be unaffordable to the Respondent. In these circumstances, the Tribunal was satisfied that it was reasonable to grant the order for eviction.

### **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

# Nicola Irvine

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**Legal Member/Chair**

**30 July 2024**

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**Date**