



**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/24/0643**

**Re: Property at 1 Gladstone Place, Turriff, AB53 4PP (“the Property”)**

**Parties:**

**Mr Josh Galloway, 3 Station Cottages, Turriff, AB53 4ER (“the Applicant”)**

**Morgan Preece, Shynade Lowe, 1 Gladstone Place, Turriff, AB53 4PP (“the Respondents”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Gerard Darroch (Ordinary Member)**

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

**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 Respondents 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 5 July 2024 informing both parties that a CMD had been assigned for 13 August 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 Respondents were invited to make written representations by 26 July 2024. No written representations were received by the Tribunal.

#### **The case management discussion – 13 August 2024**

4. The CMD took place by conference call. The Applicant joined the call and represented himself. The Respondents did not join the call and the discussion proceeded in their absence. This case called alongside a related case which proceeds under chamber reference FTS/HPC/CV/24/0655. The Tribunal explained the purpose of the CMD. The Applicant explained that the last payment made by the Respondents to the rent account was in October 2023. The rent arrears have increased since the application was made and now amount to £5,575. There have been discussions with the Respondents about repayment plans but they have never adhered to those. The Applicant does not know whether the Respondents are in employment or whether they are in receipt of benefits. The Respondents do not have any dependents. The Applicant understands that the Respondents have been in touch with the citizens advice bureau and the local authority housing team, but no change of circumstances have been intimated to the Applicant.

#### **Findings in Fact**

5. The parties entered into a private residential tenancy which commenced 28 November 2022.
6. The Applicant served Notice to Leave on the Respondents personally on 9 January 2024.
7. The Respondents have been in arrears of rent for more than 3 consecutive months.

#### **Reason for Decision**

8. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicant relied upon ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016. The Respondents did not lodge any written representations and failed to participate in the CMD. Although there have been discussions between the parties, the Respondents have not maintained any agreed payments. No rent at all has been paid since October 2023. There was no material before the Tribunal to indicate that the Respondents disputed the rent arrears. The Tribunal was satisfied that ground 12 was established. The Respondents have been given fair notice of these proceedings. Payment of rent is the Respondents' primary responsibility and they have not fulfilled that responsibility. The tenancy appears to be unaffordable to the Respondents. 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.**

**Legal Member/ Chair:**

**Date: 13 August 2024**

**Nicola Irvine**