

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

---



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber)**

**Chamber Ref: FTS/HPC/EV/23/4667**

**Re: Property at 22/5 MURRAYBURN PLACE, Edinburgh, EH14 2RS (“the Property”)**

**Parties:**

**Mr Juan Manuel Diaz-Delmonte, Ms KATARZYNA BANASZEWSKA-DIAZ, 56 Rosebery Avenue, South Queensferry, EH30 9JH (“the Applicants”)**

**Mr Karol Golebiowski (SBA), Unknown, Unknown (“the Respondent”)**

**Tribunal Members:**

**Virgil Crawford (Legal Member) and Ahsan Khan (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

**BACKGROUND**

1. By lease dated 11<sup>th</sup> February 2019 the Applicants let the Property to the Respondent.
2. Rent is payable at a rate of £775.00 per calendar month.
3. Arrears of rent arose soon after the commencement of the lease. The last payment of rent was made on 12<sup>th</sup> July 2023 at which point arrears amounted to £7,915.00.
4. Arrears continued to accrue thereafter. As at the date of the case management discussion on 12<sup>th</sup> August 2024 arrears of rent amounted to £17,990.00.
5. The Respondent has also vacated the Property although it is still occupied by his former partner and her children.
6. A notice to leave was served upon the Respondent.

7. A notice in terms of s11 of the Homeless etc (Scotland) act 2003 was intimated to the local authority.

## **THE CASE MANAGEMENT DISCUSSION**

8. The Applicant did not participate in the case management discussion but was represented by Miss R Doyle of McEwan Fraser Legal. The Respondent did not participate in the case management discussion. The Respondent did not participate in the Case Management Discussion. The Tribunal was previously unable to serve the proceedings upon the Respondent by Sheriff Officers. The Tribunal subsequently advertised the proceedings on the Tribunal website. The Tribunal was in receipt of a Certificate of Advertisement confirming that the Respondent had been given lawful notice of the proceedings. In the circumstances the Tribunal was satisfied, in terms of Rule 24 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 that the Respondent had received intimation of the date and time of the Case Management Discussion and considered that it was appropriate to proceed with the Case Management Discussion in the absence of the Respondent in accordance with Rule 29 of said Rules;
9. The Applicant's representative moved the tribunal to grant an order for eviction on the basis of rent arrears and on the basis the Respondent has vacated the premises.
10. In relation to the personal circumstances of the Respondent, he advised the Applicant by text message, on 21<sup>st</sup> September 2023, that he had separated from his partner and had moved out of the Property. He did not provide a forwarding address. He is no longer occupying the Property.
11. The Respondent's estranged partner continues to occupy the Property. She does so without the consent of the Applicant. She has been asked to vacate the premises but has refused to do so. The present occupier of the Property has not taken any steps to become the tenant of the Property. She has not made payment of rent.
12. In the circumstances, having regard to the significant level of arrears of rent, and the fact the Respondent has vacated the premises a significant period of time ago, the Tribunal grants an order for eviction.

## **FINDINGS IN FACT**

13. The Tribunal found the following facts to be established:-
  - a) By lease dated 11<sup>th</sup> February 2019 the Applicants let the Property to the Respondent.
  - b) Rent is payable at a rate of £775.00 per calendar month.
  - c) Arrears of rent arose soon after the commencement of the lease. The last payment of rent was made on 12<sup>th</sup> July 2023 at which point arrears amounted to £7,915.00.

- d) As at the date of the case management discussion arrears of rent amounted to £17,990.00.
- e) The arrears are equivalent to almost 2 years of rental payments
- f) The Respondent has vacated the Property.
- g) A notice to leave was served upon the Respondent.
- h) A notice in terms of s11 of the Homeless etc (Scotland) act 2003 was intimated to the local authority.

## **DECISION**

The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under grounds 10 and 12 of Schedule 3 to said Act

Order not to be executed prior to 12 noon on 18 September 2024

## **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.**

**12 August 2024**

---

**Legal Member/Chair**

---

**Date**