



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18 of the Housing (Scotland) Act 1988**

**Chamber Ref: FTS/HPC/EV/24/1814**

**Re: Property at 2/01, 13 Royal Street, Gourock, PA19 1PJ (“the Property”)**

**Parties:**

**Gourock Property Company LTD, 18 Nicolson Street, Greenock, PA15 1JU (“the Applicant”)**

**Mr Shayne Woods, 2/01, 13 Royal Street, Gourock, PA19 1PJ (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (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 the order for recovery and possession should be granted in favour of the Applicant.**

**Background**

1. An application was received by the Housing and Property Chamber dated 22<sup>nd</sup> April 2024. The application was submitted under Rule 65 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 12 of the Housing (Scotland)(Act) 1988 (“the Act”).
2. On 8<sup>th</sup> August 2024, all parties were written to with the date for the Case Management Discussion (“CMD”) of 11<sup>th</sup> September 2024 at 10am by teleconferencing. The letter also requested all written representations be submitted by 29<sup>th</sup> August 2024.

3. On 12<sup>th</sup> August 2024, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 12<sup>th</sup> August 2024.
4. The case was conjoined with case FTS/HPC/CV/24/1818

#### The Case Management Discussion

5. A CMD was held on 11<sup>th</sup> September 2024 at 10am by teleconferencing. The Applicant was not present but was represented by Mr Kenneth Caldwell, Solicitor, Patten & Prentice Solicitors. The Respondent was not present and was not represented. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the CMD.
6. There had been some issue raised within the process regarding whether this was a Short Assured Tenancy. Mr Caldwell accepted that it was not a Short Assured Tenancy as it was not 6 months or longer at its initial point. The Tribunal accepted that it was an Assured Tenancy and the correct documentation had been lodged.
7. Mr Caldwell said that he had sent out a Pre Action Protocol letter on 17<sup>th</sup> April 2024. A copy of the letter had been included within the papers lodged. He had also sent out information with the Notice To Quit.
8. Mr Caldwell said that the last contact from the Respondent was earlier this year. It is a one bedroom flat. He noted that the rent is actually £300 but £275 has only ever been sought. He said that the Respondent is a 40 year old single man. He has a daughter who does not reside with him. Mr Caldwell said that he believed that there may be substance issues with the Respondent. He is not employed. There is no known Universal Credit entitlement.
9. Mr Caldwell said that the Applicant has made several visits without being able to contact the Respondent. Access was gained this year due to a water ingress which needed to be addressed.

#### Findings and reason for decision

10. The parties entered into an Assured Tenancy on 1<sup>st</sup> November 2017 until 28<sup>th</sup> April 2018. The rent payments of £275 are due on the 28<sup>th</sup> day of each month.
11. The Respondent persistently failed to pay his rent charge of £275 per month.
12. The last payment of rent was made on 28<sup>th</sup> October 2022 for £200, which is less than the rent charge.
13. There are no known outstanding Universal Credit issues.
14. The arrears sought totalled £9105 in the conjoined case though the arrears have increased beyond that amount to £10480.

## Decision

15. The Tribunal found that ground 12 has been established and granted an order in favour of the Applicant. The Applicant is entitled to an Order of recovery of possession.

## **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.**

# Gaby Miller

11<sup>th</sup> September 2024

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Legal Member/Chair

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Date