



**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/24/1060**

**Property : 32 Rowan Road, Abronhill, Cumbernauld G67 3BZ (“Property”)**

**Parties:**

**Manish Khanna on behalf of Khanna Homes Ltd, 2 Dullatur Road, Dullatur, Cumbernauld G68 OAF (“Applicant”)**

**K Property, 18-20 Baronhill, Cumbernauld Village G67 2SB (“Applicant’s Representative”)**

**Darren Bisset, 32 Rowan Road, Abronhill, Cumbernauld G67 3BZ (“Respondent”)**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Frances Wood (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined that an order for possession of the Property should be made.**

1. The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Private Tenancy Agreement which commenced on 29 August 2022; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 1 February 2024 ("Notice to Leave"); a copy of an email from the Applicant’s Representative to the Respondent attaching the Notice to Leave dated 1 February 2024; rent statement and notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with proof of posting on 4 March 2024. On 1 October 2024 the Applicant’s Representative lodged an up to date statement of rent arrears which indicated that the arrears were £5,662.00.

## **Case Management Discussion (“CMD”)**

2. A CMD took place before the Tribunal on 1 October 2024 by teleconference. Reference is made to the note of the CMD. The outcome of the CMD was that a Hearing was fixed for 30 January 2025 and the Tribunal issued a direction. On 10 January 2025 the Applicant lodged a response to the direction which indicated that Khanna Homes Ltd owned 11 properties including the Property and noted revenue and costs associated with those properties. On 30 January 2025 the Applicant’s Representative lodged an up to date statement of rent arrears which indicated that the arrears were £5878.65 as at 8 January 2025. The Respondent did not lodge any documents in response to the direction.

## **Hearing**

3. A Hearing took place by Webex on 30 January 2025. Manish Khanna of the Applicant and the Respondent were in attendance as was Donna Cramb of the Applicant’s Representative.
4. Mr Khanna told the Tribunal that the Property was owned by Khanna Homes Ltd which was owned by himself and his wife and that the Applicant should be defined as “Manish Khanna on behalf of Khanna Homes Ltd”.
5. The Tribunal noted that the rent arrears were now £5878.65 and that no “top up” payments towards the arrears seemed to have been made since the CMD on 1 October 2024 although an additional £39.35 had been paid in January 2025. Mr Bisset told the Tribunal that the job centre had told him the additional £39.35 was being sent direct to the Applicant. Mrs Cramb confirmed this payment had not been explained but the assumption was it was a contribution to rent arrears from Universal Credit. The Tribunal noted that the rent had been £450 per month and had increased to £504 per month in July 2024. Mrs Cramb said that the relevant rent increase notice had been issued. Mr Bisset confirmed that he received the rent increase notice. The Tribunal noted that at the CMD Mr Bisset had referred to paying an additional £120 per month towards the arrears and asked Mr Bisset why that had not been paid. Mr Bisset said that he did not want to pay that additional amount so that he would have money aside in the event he was made homeless. He was also waiting to see what happened and had a tendency to “bury his head in the sand”.
6. Mr Khanna told the Tribunal that Khanna Homes Ltd owns 11 properties. He said that he had interests in other business but could not use one business to subsidise another. He said that Khanna Homes Ltd had remortgaged the portfolio in October 2023. He said the company had one loan for the portfolio which was due to be repaid in October 2028. Mr Khanna said that the combined

revenue from the portfolio is £8000 per month assuming all tenants are paying full rent and there are no voids. He said that the Respondent is the only tenant with significant arrears. Mr Khanna said that the monthly loan repayment is £4500 and that the monthly costs are £3300 as detailed on the direction response. The monthly revenue for the portfolio was therefore £8000 and the monthly outgoings were £7800. Mr Khanna said that if an order for eviction was granted he would need to decide whether to re-let the Property or sell it. He said that if an order for eviction was not granted there would be an impact on Khanna Homes Ltd due to the significant level of the arrears.

7. The Tribunal asked Mr Bisset what steps he had taken to find out about alternative accommodation. He said he had completed the forms before the CMD but had not submitted them. He said he had asked for new forms. He said he had spoken to Citizens Advice and had yesterday obtained a phone number for Shelter. He said that he had not made contact with the local authority homelessness team and he had not made contact with the Applicant's Representative about possible alternative smaller accommodation. He again said that he has a tendency to "bury his head in the sand." He said he had hoped he would not be evicted.
8. The Tribunal asked Mr Bisset about his health conditions. He said he had anxiety and depression but he thought it was mainly anxiety. He said he rarely leaves the Property and if he does, he panics. The Tribunal asked Mr Bisset if he had a formal diagnosis or if he consulted any specialist regarding his condition. He said the diagnosis was from his GP and that he does not consult any specialist. He said that he does not access any local services including any support services. He said the job centre had declared him unfit for work some time in 2024 though he could not recollect when. He said he also had an issue with his feet and could only walk for 10/15 minutes. He said he is waiting for an appointment with a podiatrist.
9. Mr Bisset told the Tribunal that his son and father do his shopping for him and pick up prescriptions. He said that his father, brother and sister live close by in Kildrum. He said he has friends in Rowan Road. Mr Bisset told the Tribunal that he has an 18 year old son who visits him and a 3 year old daughter who stays with him every second weekend. He said he does not have care responsibilities outwith that for his daughter. He said that if he was made homeless he would not be able to see his daughter but could build up seeing his children again once he was settled. The Tribunal noted that the Property has 3 bedrooms and asked Mr Bisset if he needed a 3 bedroom property. He said that he did not.
10. Mr Bisset told the Tribunal that he had worked out that he could probably afford to pay £200 per month towards the arrears. He said that he had applied for

adult disability allowance in December 2024 and was waiting for a decision. The Tribunal asked Mr Bisset how realistic it was for him to pay an additional £200 per month when he had paid nothing towards the arrears since the CMD. He said he had worked out that he could afford to pay an additional £200 per month. The Tribunal asked Mr Bisset if the arrears were due to a delay in payment of benefits. He said that they were not. He said he wished to apologise to the Applicant that matters had reached this stage.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement which commenced on 29 August 2022.
2. The Notice to Leave was served by email on 1 February 2024.
3. At the date of service of the Notice to Leave the cumulative amount of rent arrears equated to or exceeded an amount that is the equivalent of 6 months' rent under the Tenancy Agreement.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 4 March 2024.
5. At the date of the hearing, the rent arrears were £5878.65.
6. The Respondent had paid nothing towards the rent arrears following the CMD held on 1 October 2024 with the exception of one payment of £39.35 which appeared to be from Universal Credit.
7. The Respondent had not made contact with his local authority to enquire about assistance with alternative accommodation.

### **Reasons for the Decision**

11. The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51 of the Act, the First-tier Tribunal may issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies. In the Notice to Leave the Applicant stated that they sought recovery of possession of the Property on the basis set out in ground 12A which is that the tenant has substantial rent arrears and the cumulative amount of those arrears equates to or exceeds 6 months' rent under the tenancy agreement. The Tribunal considered the statement of rent arrears provided and determined that ground 12A had been established.

12. The rent arrears are £5878.65 which is a significant figure and they are continuing to rise as the monthly amount received directly by the Landlord from Universal Credit leaves a shortfall. The property occupied by the Respondent is larger than he needs. At the CMD the Respondent told the Tribunal that he could pay a monthly amount of £120.65 towards the arrears and yet he had not done so. At the hearing the Respondent told the Tribunal he had the money to make payments towards the arrears but had chosen not to pay anything so that he would have money aside if he was evicted. At the CMD the Respondent told the Tribunal that he had completed the forms to apply to the local authority for assistance with housing. At the hearing he told the Tribunal he had not submitted the forms and had requested fresh forms for completion. He told the Tribunal he had not made contact with the local authority regarding alternative accommodation. It was apparent that the Respondent had done nothing to indicate a willingness or ability to deal with the arrears or to seek to manage his housing situation. The Tribunal accepted that the Respondent suffered from anxiety but he was not using any particular local services to assist with that. Even if that was the case, it may be that the local authority will be able to house the Respondent in his local area. The Tribunal had no information about that as the Respondent had made no contact with the housing team at the local authority and made no reference to being in touch with other social housing providers. The Respondent receives support from family members but did not indicate that would cease if he had to vacate the Property.
13. Having considered all of the circumstances, the Tribunal determined that it was reasonable to issue an eviction order.

### **Decision**

The Tribunal grants an order for possession of the Property.

### **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.**

# J Devine

**Joan Devine  
Legal Member**

**Date : 30 January 2025**