



**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/24/2346**

**Re: Property at 2/2 361 Allison Street, Glasgow, G42 8HT (“the Property”)**

**Parties:**

**Mr Jarnail Tumani, 1 Lammermuir Place, Kirkcaldy, Fife, KY2 5RD (“the Applicant”)**

**Mrs Simona Rostas and Mr Victor Rostas, both 2/2 361 Allison Street, Glasgow, G42 8HT (“the Respondents”)**

**Tribunal Members:**

**George Clark (Legal Member) and Eileen Shand (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application could be decided without a Hearing and issued an Eviction Order against the Respondents.**

**Background**

1. By application, dated 20 May 2024, the Applicant sought an Order for Possession of the Property under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 12 of Schedule 3 to the 2016 Act, namely that the Respondents have been in rent arrears for three or more consecutive months.
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties, commencing on 3 March 2023 at a rent of £550 per month, a Notice to Leave, dated 16 May 2024, advising the Respondents that the Applicants were seeking an Eviction Order under Ground 12 of Schedule 3 to the 2016 Act and that an application to the Tribunal would not be made before 17 June 2024, with evidence of posting on 16 May 2024, and a Rent Statement showing arrears as at the date of the application of £6,846.42. The Respondents had paid no rent between March

2023 and November 2023 and, thereafter, the only payments received had been Housing Benefit, beginning with a payment of £763.80 and followed by monthly payments of varying amounts between £101.76 and £152.76.

3. On 21 January 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 11 February 2025. The Respondents did not make any written representations to the Tribunal.

### **Case Management Discussion**

4. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 27 February 2025. The Applicant was represented by Mr Syed Jaffrie and Ms Anees Farook of Strada Rescom Limited, letting agents, Glasgow. The Respondents were not present or represented.
5. The Applicant's representatives told the Tribunal that the Respondents themselves had paid no rent since the date of the application and that Housing Benefit payments, which had been made directly to the letting agents, had stopped with a letter from the local authority in August 2024 stating that the Respondents' Housing Benefit had been suspended. Nothing had been received since then and the arrears currently stand at £11,629.55. The Applicant's representatives had written to the Respondents, most recently in May 2024, advising them of the arrears, in compliance with Pre-Action protocols. They understood that the Respondents had adult children living with them and that Mr Rostas and one of his children are in work. They had no knowledge of any health issues or vulnerabilities affecting the Respondents. The Applicant is retired and is reliant on rental income.

### **Reasons for Decision**

6. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
7. Section 51 of the 2016 Act states that the Tribunal is to 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.
8. Ground 12 of Schedule 3 to the Act states that it is an Eviction Ground that the tenant has been in rent arrears for three or more consecutive months and that the Tribunal may find that Ground 12 applies if, at the beginning of the day on which the Tribunal first considers the application for an Eviction Order on its merits, the tenant is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on

that day, and has been in in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, that the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and the Tribunal is satisfied that it is reasonable on account of that fact to issue an Eviction Order.

9. The Tribunal was satisfied that the Respondents have been in rent arrears for three or more consecutive months and that the current arrears exceed one month's rent. No evidence had been presented to indicate that the Respondents' being in arrears might be wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. The Tribunal also noted that the Respondents had not made any written representations and that they had chosen not to be present or represented at the Case Management Discussion to offer any information for the Tribunal to consider in determining whether it would be reasonable to issue an Eviction Order against them.
10. Having considered carefully all the evidence before it, and in particular the amount of the arrears, the Tribunal decided that it would be reasonable to issue an Eviction Order under Ground 12 of Schedule 3 to the 2016 Act.
11. The Tribunal's Decision was unanimous.

## **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.**

George Clark

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**Legal Member/Chair**

**27 February 2025**  
**Date**