



**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 (“the 2016 Act”)**

**Chamber Ref: FTS/HPC/EV/24/3447**

**Re: Property at 3/4 2 Helenvale Square, Glasgow, G31 4BP (“the Property”)**

**Parties:**

**LAR Housing Trust, F3 Buchan House, Enterprise Way, Fife, Dunfermline, KY11 8PL (“the Applicant”)**

**Mr Marc Young, 3/4 2 Helenvale Square, Glasgow, G31 4BP (“the Respondent”)**

**Tribunal Members:**

**Sarah O'Neill (Legal Member) and Frances Wood (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for recovery of possession should be granted in favour of the Applicant against the Respondent.**

**Background**

1. An application was received on 26 July 2024 from the Applicant’s solicitor on behalf of the Applicant under Rule 109 of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (‘the 2017 rules’) seeking recovery of the property under Ground 12 as set out in Schedule 3 of the 2016 Act.
2. Attached to the application form were:
  - (i) Copy private residential tenancy agreement between the parties which commenced on 23 June 2022.
  - (ii) Copy Notice to Leave dated 24 May 2024 citing ground 12, and stating the date before which proceedings could not be raised to be 24 June 2024, together with proof of sending by email dated 24 May 2024 to the Respondent.

- (iii) Rent statement showing the Respondent's outstanding rent arrears to be £3057.50 as at 1 July 2024.
  - (iv) Copy notice to Glasgow City Council under section 11 of the Homelessness etc. (Scotland) Act 2003 with proof of sending by email on 24 July 2024.
  - (v) Copies of pre-action protocol letters sent by the Applicant to the Respondent dated 7 April, 23 June, 3 August and 11 August 2023 and 3 May 2024.
  - (vi) Copies of various letters sent by the Applicant to the Respondent between 8 September 2023 and 12 July 2024 regarding payment arrangements which had been reached and not adhered to by the Respondent.
3. The application was accepted on 17 August 2024.
  4. Notice of the case management discussion (CMD) scheduled for 5 March 2025, together with the application papers and guidance notes, was served on the Respondent by sheriff officer on behalf of the Tribunal on 30 January 2025. The Respondent was invited to submit written representations by 18 February 2025.
  5. An updated rent statement was received from the Applicant's solicitor on 11 February 2025. This showed that the outstanding rent arrears owed by the Respondent had increased to £7,301.25 as at 1 February 2025.
  6. No written representations were received from the Respondent prior to the CMD.

### **The case management discussion**

7. A CMD was held by teleconference call on 5 March 2025 to consider the present application and the accompanying civil proceedings application (FTS/HPC/CV/24/3446). The Applicant was represented on the teleconference call by Ms Kirstie Donnelly of T.C. Young solicitors.
8. The Respondent was not present or represented on the teleconference call. The Tribunal delayed the start of the CMD by 10 minutes, in case the Respondent had been detained. He did not join the teleconference call, however, and no telephone calls, messages or emails had been received from him.
9. The Tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date and time of a case

management discussion had been duly complied with. It therefore proceeded with the CMD in the absence of the Respondent.

### **Submissions on behalf of the Applicant**

10. Ms Donnelly asked the Tribunal to grant an eviction order in favour of the Applicant against the Respondent on ground 12. As at the date of the CMD, the Respondent owed £7967.50 in rent arrears. The Respondent had paid no rent since 3 June 2024.
11. The Applicant continued to send the Respondent monthly reminders with accompanying rent statements, but there had been no contact from the Respondent since May 2024. The Applicant had taken various steps to establish contact including as a last resort, taping a notice to the front door of the property. At a recent visit to the property this was seen to have been removed. The Applicant therefore believed that the Respondent continued to occupy the property as at the date of the CMD.
12. The Applicant had sent several pre-action protocol letters to the Respondent. He had previously entered into three separate payment arrangements with the Applicant, all of which had been broken.
13. To the Applicant's knowledge, the Respondent was not in receipt of benefits. He had been employed as a mechanic when he took on the tenancy, and had informed the Applicant in June 2024 that he had started a new job.
14. The Respondent is the sole occupant of the property. He has two daughters aged 7 and 14 who occasionally stay at the property overnight. The Applicant has no further information about his current circumstances given the lack of recent contact, although it is not believed that the Respondent has any health issues.
15. The Applicant is a charitable organisation which operates on a non-profit basis and relies entirely on its rental income. The Respondent's outstanding arrears were the highest across all of the Applicant's properties, of which there are more than 700. They accounted for more than 3% of all of its outstanding arrears. These arrears would therefore have an impact on all of its tenants and may result in increased rents for other tenants.
16. Ms Donnelly submitted that in all of the circumstances, it would therefore be reasonable to grant an eviction order.

## Findings in fact

17. The Tribunal made the following findings in fact:

- The Applicant owns the property and is the registered landlord for the property.
- There is a private residential tenancy in place between the parties, which commenced on 23 June 2022.
- The rent payable under the tenancy is currently £583.50 per month, payable on the first of each month since its commencement.
- The Notice to Leave was validly served on the Respondent by email on 24 May 2024.
- The Respondent has been in rent arrears continuously since July 2023.
- The Applicant has complied with the pre-action requirements.
- The Respondent entered into three payment arrangements with the Applicant, but failed to adhere to them.

## Reasons for decision

18. The Tribunal considered that in the circumstances, it was able to make a decision at the CMD without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties.

19. The Tribunal considered whether Ground 12 (rent arrears) had been met. Ground 12 states:

### ***Rent arrears***

*12(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.*

*(2).....*

*(3) The First-tier Tribunal may find that the ground named by sub-paragraph*

*(1) applies if—*

*(a) for three or more consecutive months the tenant has been in arrears of rent, and*

*(b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.*

*(4) In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider—*

*(a) whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and*

*(b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.*

20. The Tribunal noted that the Respondent had been continuously in arrears since July 2023. He had therefore been in rent arrears for three or more consecutive months.
21. The Tribunal then considered whether it was reasonable to issue an eviction order in all the circumstances of the case. In doing so, it took into account all of the evidence before it. The Tribunal was satisfied that the Applicant had complied with the pre-action protocol. It was also satisfied on the basis of the evidence before it that the arrears were not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
31. The Tribunal gave particular weight to the substantial rent arrears owed by the Respondent to the Applicant. It noted that the Applicant had made significant efforts to reach a payment arrangement with the Respondent. It had done so on three occasions but the Respondent had failed to honour the arrangements, and had not been in contact with the Applicant since May 2024.
32. The Tribunal noted that the Respondent's arrears were having an adverse impact on the Applicant, which is a charitable organisation, and potentially also its other tenants. It also noted that the Respondent had not submitted any written representations and did not appear to be opposing the application.
33. The Tribunal decided that in light of all the above considerations, it was reasonable in all the circumstances to grant an order for eviction in favour of the Applicant against the Respondent.

## **Decision**

The Tribunal grants an order in favour of the Applicant against the Respondent for recovery of 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.

# S.O'Neill

5 March 2025

Legal Member/Chair

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Date