



**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 (“the Act”)**

**Chamber Ref: FTS/HPC/EV/24/2548**

**Re: Property at 18 Glenshee Gardens, Glasgow, G31 4RF (“the Property”)**

**Parties:**

**Southside MD Investments Ltd, 20 Nicolson Street, Edinburgh, EH8 9DH (“the Applicants”)**

**Mark Regan, Fiona McGeorge, 18 Glenshee Gardens, Glasgow, G31 4RF (“the Respondents”)**

**Tribunal Members:**

**Steven Quither (Legal Member) and Ahsan Khan (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) UNANIMOUSLY determined that the order for possession be GRANTED.**

**BACKGROUND**

1. This is an application to bring to an end a Short Assured Tenancy, commencing 13 May 2012 for 6 months and continuing thereafter by tacit relocation on a 2 monthly basis. Said Tenancy was between Roger McGill and John Davidson, c/o Southside Property Management, 20 Nicolson Street, Edinburgh and the Respondents, the Applicants having taken over and continued same in terms of their acquisition of the Property on or about 26 February 2021.
2. The application was based on Grounds 11 and 12 in Schedule 5 of the Act, providing repossession grounds where, generally, the tenant has persistently

delayed paying rent becoming lawfully due and with some rent outstanding as at the date proceedings are raised and notice served under s19 of the Act.

3. An associated application, under Tribunal reference CV/24/2552, for payment of unpaid rent was considered together with this case.
4. At all times the Tribunal was aware that in relation to this eviction case, it required to be satisfied not only that the formal requirements regarding same had been complied with but also that it was reasonable to make the order for repossession.
5. The supporting documentation for this application confirmed that appropriate notice periods had been given in respect of the s19 Notice (Form AT6) and Notice to Quit and that the appropriate local authority had been notified of the application in terms of s11 of the Homelessness etc. (Scotland) Act 2003. The Tribunal also had regard to the terms of an email dated 4 June 2024, apparently and presumably to both Respondents under “names” used by them for email purposes, sent to them by the Applicants’ agents, providing them with detailed advice and information as to how they might address the difficulties they were facing regarding payment of rent.
6. In their application, the Applicants stated that they wished possession in view of the level of arrears which had accrued, that it was reasonable to grant the eviction order sought, given said arrears and that, accordingly, Grounds 11 and 12 were established.
7. The original application, made on 4 June 2024, was based on rent arrears outstanding as at 1 February 2024 of £12,540-24, the sum referred to in Form AT6, served on each Respondent on 21 February 2024.
8. After a request for further information from the Tribunal dated 24 June, responded to by the Applicants’ agents on 1 July, both 2024, said Application was accepted by Notice of Acceptance of 30 July 2024, by virtue of which a Case Management Discussion (“CMD”) was duly fixed for 3 December in respect of both this and the other associated application.
9. Prior to said CMD, on 7 November 2024, the Applicants’ agents lodged an updated rent statement showing rent due as at 1 October 2024 of £13653-14, advising also that they anticipated this would rise to £14753-14 by the date of the CMD and indicating they would be seeking to amend accordingly. Although lodged primarily for the associated application CV/24/2552, this information was available to the

Tribunal for this application also. They also lodged a written “Submission on Reasonableness”.

10. In addition, the Tribunal received sheriff officer confirmation of personal service of both applications on the Respondents on 24 October 2024.

### **CASE MANAGEMENT DISCUSSION**

11. Said CMD took place by teleconference on 3 December 2024, at 10am. The Applicants were represented by David Gray from Gilson Gray, Solicitors, Edinburgh. The Respondents were neither present nor represented.

12. Mr Gray advised and confirmed, in relation to this application and by submission and in response to questions from the Tribunal:--

- a) He did not know why the Respondents were not in attendance and had had no dealings at all with them.
- b) He was seeking to amend the amount of outstanding rent referred to to the sum of £14753-14 as at 1 December 2024 as previously referred to, the most recent payment of rent having been made on 2 October 2024, which did not materially affect the total sum due. The Tribunal was content to allow this amendment.
- c) He referred to and founded upon his “Submission on Reasonableness”, adding that so far as he was aware from the Applicants, the Respondents had not been in any sort of contact with them since about February of this year, although he thought there had perhaps been some email correspondence on or about 18 October 2024 in respect of a proposed safety check visit on 30 October, where the Respondents did not permit access.
- d) So far as he was aware, the Respondents had accrued arrears between about January 2021 and November 2022 and had not made up arrears accruing from that period.
- e) Sums received since then had been applied towards the oldest rent due ie payments made on 2 September 2024 were credited to rent due from September 2022, per the rent statement.
- f) He did not know what, if any, benefits the Respondents might have been receiving.
- g) He confirmed that the Applicants have fully complied with the pre-action protocols prescribed by Scottish Ministers in relation to applications seeking orders of eviction.

h) He did not know if the Applicants had made any visits to the Property to enquire about arrears, but did not think so, having knowledge of their working methods and practices. Similarly, he did not know of any correspondence sent by recorded delivery or similar in relation to the rent arrears.

13. In the absence of any opposition, stated at the CMD or written, the Applicants were seeking the order for re-possession based on Grounds 11 and 12 and it was reasonable for the Tribunal to grant same.

### **FINDINGS IN FACT**

14. The Respondents are due and liable for arrears of rent up to 1 December 2024 in the sum of £14753-14 arising out of a Short Assured Tenancy for the Property between the Respondents and, initially, Roger McGill and John Davidson and now the Applicants, commencing 13 May 2012.

15. The Respondents have persistently delayed paying rent lawfully due, in particular for the period between January 2021 and June 2022, although they have made some rent payments since, up to and including in October 2024.

16. As at commencement of these proceedings, some rent was lawfully due and unpaid and the Respondents were also in arrears of rent when notice was served on each of them under s19 of the Act on 21 February 2024.

### **REASONS FOR DECISION**

17. Having found that the Respondents are due and liable for arrears of rent in the sum of £14573-13, amounting in total to just over 2 years worth of rent being unpaid, that the Respondents have persistently delayed paying rent lawfully due, in particular for the period between January 2021 and June 2022, although they have made some rent payments since, up to and including in October 2024 and that as at commencement of these proceedings, some rent was lawfully due and unpaid and the Respondents were also in arrears of rent when s19 notice was served on each of them 21 February 2024, the Tribunal was of the view that Grounds 11 and 12 of Schedule 5 of the Act founded upon by the Applicants in this application, had been established.

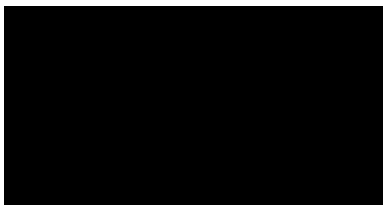
18. Accordingly, in view of said level of arrears which had accrued and the absence of any opposition to the application from the Respondents, the Tribunal considered it just and reasonable to grant the order for possession now sought.

## **DECISION**

19. To grant the order for possession sought by the Applicants.

## **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.



**Legal Member/Chair**

**12 DECEMBER 2024**  
**Date**