



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/24/3836

Re: Property at 2/2 (2L), 22 Oban Drive, Glasgow, G20 6AF (“the Property”)

Parties:

Mr Malcolm Downie, 1 Poundland Cottage, Kilkerran, Maybole, KA19 7SL (“the Applicant”)

Mr Andrew Higgins, 2/2 (2L), 22 Oban Drive, Glasgow, G20 6AF (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

(in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in the sum of Eleven Thousand Two hundred and five pounds only be made (£11205.00) in favour of the Applicant and against the Respondent.

The decision of the Tribunal was unanimous.

Background

1. This application for a possession order under section 14 of the 2014 Act and Rule 70 of the First Tier Tribunal (Housing and Property Chamber) Rules of procedure 2017 was first lodged with the Tribunal on 20 August 2024 and accepted by the Tribunal on 11th September 2024. A case management discussion was fixed for 2nd May 2025 at 2pm for this and a related application for payment with reference FTS/HPC/EV/24/3835.

Case Management Discussion

2. The case management discussion was attended by Mr Fraser, solicitor of Wallace Hodge solicitors on behalf of the Applicant. There was no appearance by or on behalf of the Respondent Mr Higgins. The Tribunal noted that the application, supporting papers and the date of the case management discussion for both applications had been intimated by Sheriff Officers to the Respondent by placing the papers through the letterbox at the property on 12th March 2025. The Tribunal was satisfied that the Applicant had received fair notice of the applications and case management discussion date and determined that it was fair to proceed in his absence.

3. The Tribunal had sight of the applications, a short assured tenancy agreement, a tenant pack, deposit information, notice that the property is subject to a heritable security, Form AT5, a rent statement up to July 2024, a Form AT6 and Notice to Quit, proof of service of these documents, a pre action protocol letter, a Notice in terms of section 11 of the Homelessness etc. (Scotland) Act 2003, an email receipt and a series of emails between the parties.

4. Mr Fraser advised the Tribunal that the parties had entered into a short assured tenancy at the property with effect from 1st August 2017. The Applicant and his wife were named as landlords on the tenancy agreement but she was now deceased. There had been two tenants on the tenancy agreement at the start of the tenancy, Mr Higgins and his then partner, but they had split up and the Tribunal had sight of an email dated 12th October 2021 in which the other tenant asked to be released from the tenancy as he had separated from the Respondent Mr Higgins and had moved out and that the Respondent Mr Higgins (who was copied into the email) wished to take over the tenancy on his own. There was an email from the landlords agreeing to continue with Mr Higgins as the sole tenant and this was from November 2021.

5. The short assured tenancy was initially for a period of 12 months and the tenancy agreement contained a clause which set out that if the tenancy was not brought to an end by either party after the initial term that it would continue on a month to month basis after that period. The rent throughout the tenancy was £595 per month.

6. Mr Fraser advised the Tribunal that the Respondent was a single male thought to be living alone at the property. His employment circumstances were not known and many attempts had been made to contact him regarding the rent arrears without success. He had not at any time suggested he had issues with delay or non-payment of a benefit but the rent statement produced showed that rent arrears had started to accrue after the other tenant was permitted to leave the tenancy with part payments being made some months and nothing having been paid by way of rent since June 2023. Efforts had been made to contact the Respondent regarding the rent arrears without success. The rent statement lodged did not go beyond July 2024 but the Tribunal was advised that the rent was still not being paid and this being the last property which the Applicant had owned with his wife he now wanted to deal with matters given the large amount of rent arrears accrued. Mr Fraser was seeking a payment order for the outstanding rent accrued up to July 2024.

7. Email correspondence lodged with the Tribunal demonstrated that it was expected the Respondent was to move out in May 2024 but he did not do so.

8. Rent arrears at 30th July 2024 amounted to £11205.

9. The Tribunal was satisfied that it had sufficient information upon which to make an order and that the proceedings had been fair.

Findings in Fact

10. The Applicant and his wife (now deceased) entered into a short assured tenancy agreement as Landlords with the Respondent and one other person as tenants on 1st August 2017.

11. This tenancy was for a year and after the initial term continued on a monthly basis.

12. The monthly rent payable in terms of the tenancy is £595 per month.

13. The second tenant was released from the tenancy by agreement of the landlord and the Respondent in November 2021 and the tenancy continued with the Respondent as the sole tenant.

14. Rent arrears started to accrue in terms of the tenancy after that date with part payments being made and no rent has been paid at all by or on behalf of the Respondent since June 2023.

15. Efforts were made to contact the Respondent many times regarding the rent arrears without success and little is known of his circumstances other than that he lives alone at the property.

16. It was expected that the Respondent would be giving up the tenancy in May 2024 but he did not do that.

16. As of July 2024 the rent arrears had reached £11205.

17. The rent arrears have not accrued due to any delay or failure in payment of a relevant benefit.

18. £11205.00 in unpaid rent for the period up to July 2024 is lawfully due by the Respondent to the Applicant.

Reasons for Decision

19. The Tribunal was satisfied that it was appropriate to grant a payment order in this application as the Respondent has not responded to attempts to contact him regarding the arrears and no rent has been paid since June 2023. Given the history of

the arrears and failure of attempts to contact the Respondent it appears reasonable to grant a payment order.

Decision

The Tribunal determined that a payment order in the sum of Eleven Thousand Two hundred and five pounds only be made (£11205.00) in favour of the Applicant and against the Respondent.

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.

Valerie Bremner

Legal Member/Chair

2/5/25
Date