



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)**

**Chamber Ref: FTS/HPC/EV/20/1077**

**Re: Property at Flat 0/1, 4 Harrow Place, Glasgow, G15 7DP (“the Property”)**

**Parties:**

**Mr Naveed Chowdhury, Mrs Nahid Chowdhury, 2 Priorwood Way, Newton Mearns, Glasgow, G77 6ZY (“the Applicant”)**

**Mr Darren McGhee, Flat 0/1, 4 Harrow Place, Glasgow, G15 7DP (“the Respondent”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member)**

**Decision**

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

**Background**

1. By application dated 15 April 2020 the Applicants seeks an eviction order in terms of Section 51 of the Private Housing Tenancies (Scotland) Act 2016 (“the 2016 Act”). Documents lodged in support of the application include a copy private residential tenancy agreement, copy notice to leave with Sheriff Officer certificate of service, rent statement and Notice to the Local Authority in terms of Section 11 of the Homelessness etc (Scotland) Act 2003. The application is based on ground 12 of schedule 3, rent arrears over three consecutive months.
2. A copy of the application and supporting documents were served on the Respondent by Sheriff Officer on 23 July 2020. Both parties were notified that

a case management discussion (“CMD”) would take place by telephone case conference on 17 August 2020 at 10am and that they were required to participate.

3. The case called for a CMD on 17 August 2020 at 10am. The Applicant was represented by Ms Morrison. The Respondent participated. A related application under Chamber reference HPC/CV/20/1078 for a payment order also called.

### **Case Management Discussion**

4. Ms Morrison advised the Legal Member that the Applicant seeks an eviction order and a payment order for the arrears of rent. She advised that a request to amend the related application had been submitted on 3 August 2020 and sent to the Respondent. The sum now due is £4250. She stated that the applicant has complied with the requirements of the 2016 Act, and has established the eviction ground, namely rent arrears over three consecutive months.
5. Mr McGhee advised the Legal Member that he had received the notification from the Applicant of the request to increase the sum claimed to £4250. He confirmed that he admits that this sum is due and did not oppose the amendment. He advised the Legal Member that his income has been affected by the COVID 19 pandemic, although he has continued to work and did not qualify for Universal Credit. He confirmed that he had received the Notice to Leave and accepts that an eviction order will be granted. He explained that he had hoped to move before the lockdown, but the property which had been identified was in a state of disrepair. He hopes to secure alternative accommodation from a Housing Association, although they have not been allocating properties during the Government lockdown.

### **Findings in Fact**

6. The Applicants are the owners and landlords of the property.
7. The Respondent is the tenant of the property in terms of a private residential tenancy agreement.
8. The Respondent is due to pay rent at the rate of £500 per month.
9. The Respondent has been in arrears of rent since 31 July 2019.
10. The Respondent owes the sum of £4250 in unpaid rent to the Applicant

## Reasons for Decision

11. The application was submitted with a Notice to Leave dated 29 January 2020, together with a Sheriff Officer certificate of service, which establishes that the Notice was given to the Respondent on 30 January 2020. The Notice states that an application to the Tribunal is to be made on ground 12, rent arrears over three consecutive months. Part 4 of the notice indicates that the earliest date that an application to the Tribunal can be made is 1 March 2020. The application to the Tribunal was made after expiry of the notice period. The Legal member is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a copy of the Section 11 Notice and evidence that it was sent to the Local Authority by email. The Legal Member is satisfied that the Applicant has complied with Section 56 of the 2016 Act.
12. Section 51(1) of the 2016 Act states, “ The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.” Ground 12 states “(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months. (2) The First-tier Tribunal must find that the ground named in sub- paragraph (1) applies if – (a) at the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, the tenant – (i) is in arrears of rent by an amount equal to or greater than the amount which would be payable as one months rent under the tenancy on that day, and (ii) has been arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more continuous months, and (b) the Tribunal is satisfied that the tenants 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.”
13. The Legal Member is satisfied from the rent account lodged with the application, and the information provided at the CMD, that the Respondent now owes the sum of £4250 in unpaid rent. He has been in arrears of rent since 31 July 2020. He has therefore been in arrears for three or more consecutive months, both at the date of service of the Notice to leave, and the date of the CMD. The sum owed is more than one months instalment of rent. From the information provided by the Respondent, the Legal member is also satisfied that the arrears of rent are not due to a delay or failure in the payment of a relevant benefit. The Legal Member therefore concludes that the eviction ground has been established.
14. As the Applicant has complied with the requirements of the 2016 Act, and as the eviction ground has been established, the Legal Member determines that an eviction order should be granted.

## Decision

15. The Legal Member determines that an eviction order should be granted 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.**

# **J Bonnar**

---

**Josephine Bonnar, Legal Member**

**17 August 2020**