



**Decision 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/22/4104**

**Re: Property at Flat 15, 1 Waterford Road, Giffnock, Glasgow, East Renfrewshire, G46 7PJ (“the Property”)**

**Parties:**

**Mrs Agnes Brunton, 0/1 7 Kennedy Court, Braidholm Crescent, Giffnock, Glasgow, G46 6HH (“the Applicant”)**

**Mr Alan Cameron, Flat 15, 1 Waterford Road, Giffnock, Glasgow, East Renfrewshire, G46 7PJ (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Ann Moore (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.**

**Background**

1. The Applicant submitted an application under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondent from the property.
2. By decision dated 6 February 2023, a Convenor of the Housing and Property Chamber having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Notice of Acceptance was intimated to the Applicant’s representative on 13 February 2023. The Tribunal intimated the application to the parties by letter of 17 March 2023 and advised them of the date, time and conference call details of today’s CMD. In that letter, the parties were also told that they required to

take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 7 April 2023. No written representations were received.

### **The case management discussion**

4. The CMD took place by conference call. The Applicant was represented by Mr Troy and he was joined by his colleague, Mr Canning (observer). The Respondent did not join the conference call and the discussion proceeded in his absence. This case called alongside a related case which proceeds under chamber reference FTS/HPC/CV/22/4105. The Applicant's representative explained that he took over the management of the tenancy in December 2022. The initial rental charge was £525 per month. However, the Applicant's former representative agreed with the Respondent in September 2022 that the monthly rental charge would increase to £550. Since September 2022, the Applicant has received the housing element of the Respondent's universal credit claim, although that leaves a shortfall every month. The Applicant's representative discussed matters with the Respondent in January 2023 and at that point, the Respondent did not have a plan to pay the rent arrears which had accrued. The Respondent attended at the office of the Applicant's representative in March 2023 and offered payment of £100 per month towards arrears, with the first payment to be made on 10 April 2023. No payments have been received directly from the Respondent and there has been no further contact from him. The Respondent's personal circumstances are such that he lives alone at the property and is not in employment. The Applicant's circumstances are such that she is reliant on the rental income to supplement her state pension and has therefore been disadvantaged as result of rent not being paid in full. It was submitted that it was reasonable in all of the circumstances to grant an order for eviction.

### **Findings in Fact**

5. The parties entered into a private residential tenancy which commenced 4 January 2021.
6. The Applicant's former representative personally served the Notice to Leave on the Respondent on 21 September 2022.
7. The Respondent has been in arrears of rent for a continuous period more than 3 consecutive months.

### **Reason for Decision**

8. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Respondent failed to participate in the

discussion and did not lodge any written submissions. The Tribunal took account of the Respondent's circumstances as known to the Applicant. The Tribunal also took account of the Applicant's circumstances and the financial impact on her of rent arrears continuing to accrue. The updated rent statement lodged demonstrated that there are almost 6 months' worth of rent arrears outstanding. There was nothing to indicate that the Respondent disputed the level of rent arrears shown on the updated rent statement. The Tribunal was satisfied that the ground for eviction was established and that it was reasonable to grant the order evicting the Respondent from 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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.**

**Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.**

# **N. Irvine**

**Legal Member/Chair**

**25 April 2023**

**Date**