



**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.**

**Chamber Ref: FTS/HPC/EV/20/0050**

**Re: Property at Flat E, 251 Kelvindale Road, Glasgow, G12 0QU (“the Property”)**

**Parties:**

**Mr Graham Hutchinson, Mrs Anne Hutchinson, Ferguslea, Lamlash, Isle of Arran, Argyll and Bute, KA27 8LG (“the Applicant”)**

**Mr Brian Warwick, Mrs Sharon Warwick, Flat E, 251 Kelvindale Road, Glasgow, G12 0QU; Flat E, 251 Kelvindale Road, Glasgow, G12 0QU (“the Respondent”)**

**Tribunal Members:**

**Lesley Ward (Legal Member)**

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

- 1. The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction of the respondents from the property at Flat E 251 Kelvindale Road Glasgow G12 0QU be granted on the basis that ground 12 of schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 is met.**
2. This is an application for eviction in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’ and s51 of the Private Housing (Tenancies) (Scotland) Act 2016, ‘the Act’ on the basis of ground 12 of schedule 3 of the Act, namely that there have been rent arrears of at least one month’s rent for over 3 consecutive months.
3. The tribunal had before it the following copy documents:
  - (1) Application dated 9 January 2020.
  - (2) Notice to leave dated 9 January 2020 with an end date of 10 February 2020.
  - (3) Rent statement with rent arrears as at 23 December 2019.

- (4) Land certificate.
- (5) Tenancy agreement.

- 4. The applicants attended the CMD with Mr Colin McMillan and Ms Michelle O'Donnell from Glasgow Property Letting Limited as their representatives. The respondents did not attend and were not represented. The tribunal had sight of an execution of service of the application by sheriff officer on 21 January 2020 and were satisfied that the respondents had received appropriate notification in terms of rule 24. The tribunal proceeded with the CMD in terms of rule 29.

### **Preliminary matters**

- 5. The tribunal noted that the applicants are the landlords and are two of the owners of the property. The applicants stated that their son is the third owner. Ms O'Donnell exhibited a signed mandate from the applicants' son Mr Gordon Hutchison authorising his parents to act on his behalf regarding the property. The tribunal accepted the position.
- 6. The tribunal noted that the s11 notice, which is a legal requirement in terms of s56 of the Act, and proof of service of the notice, has not been lodged. The tribunal adjourned for the notice to be produced. Ms O'Donnell produced a copy of the notice on her phone and confirmed that the correct notice was sent by her office to the local authority today by post. The tribunal accepted the position.

### **7. Discussion**

Ms O'Donnell stated that the tribunal has already granted an order in respect of rent arrears for the property in October 2019. She made reference to the statement attached to the notice to leave and advised that the arrears have increased and are now £3485. She produced an up to date rent statement which confirmed that the rent arrears are now at £3485.

Ms O'Donnell advised that the two notices to leave were served at the email address in the tenancy agreement to each of the tenants.

Regarding the housing benefit position she stated that both respondents are in full time work and have never given any indication that they may be entitled to housing benefit.

### **8. Findings in fact and law**

- (1) The parties entered into a private residential tenancy agreement on 22 March 2019 with a start date of 23 March 2019.
- (2) The agreed monthly rent was £925 per month.

- (3) Rent arrears began to accrue on 23 August 2019.
- (4) The respondents were served with a valid notice to leave on 9 January 2019.
- (5) As at the date of the service of the notice to leave there were rent arrears in excess of one month's rent and the arrears had been outstanding for more than three consecutive months.
- (6) As at the 25 February 2020, the day of the hearing, there were rent arrears in excess of one month's rent and the arrears had been outstanding for more than three consecutive months.
- (7) The rent arrears are not due to a delay or failure in payment of a relevant benefit.

**Reasons.**

9. This was an undefended application for eviction. The tribunal was satisfied that the eviction ground was met on the information before it today and granted the mandatory order sought.

**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.**

**25 February 2020**

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**Lesley A Ward Legal Member**

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**Date**