



**Decision with 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/23/1718**

**Property : 1 /2, 107 Denmilne Street, Glasgow G34 OAQ (“Property”)**

**Parties:**

**Praxis Global Ltd t/a Asecco Property Management, 15 St Francis Rigg, Glasgow G5 OUR (“Applicant”)**

**Dial A Home, 312 Duke Street, Glasgow G31 1QZ (“Applicant’s Representative”)**

**Daryn Bates and Heather Johnstone, 1 /2, 107 Denmilne Street, Glasgow G34 OAQ (“Respondent”)**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Angus Lamont (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined that an order for possession of the Property should be made.**

**Background**

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Private Residential Tenancy Agreement dated 25 May and 3 June 2023; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 5 April 2023 ("Notice to Leave"); copy email dated 5 April 2023 attaching the Notice to Leave; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 25 May 2023; rent statement and communication to the Respondent regarding arrears in the period 5 January to 5 April 2023. The Tribunal had sight of a sheriff officer certificate of service indicating the application had been served on the Respondent on 2 August 2023.

## **Case Management Discussion (“CMD”)**

A CMD took place before the Tribunal on 28 August 2023 by teleconference. Sarah Louise of the Applicant’s Representative was in attendance. There was no appearance by the Respondent. Ms Louise told the Tribunal that the rent had not been paid since August 2022. She said she had met with the Respondent and put payment plans in place but the Respondent did not pay the agreed amounts. Ms Louise said she thought that Mr Bates may have other debts as he had referred to signing a trust deed. She said that Mr Bates is in employment but Ms Johnstone is on maternity leave. She said that the Respondent had a baby in May 2023 and had another child aged around one. The Tribunal asked about the Applicant. Ms Louise said the Property is the only rental property owned by the Applicant who was unsure whether to sell or relet if possession was obtained.

## **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement dated 25 May and 3 June 2022 ("Tenancy Agreement").
2. The Notice to Leave was served by email on 5 April 2023.
3. The Notice to Leave stated that an application for an eviction order would not be submitted to the Tribunal before 6 May 2023.
4. At the date of service of the Notice to Leave the cumulative amount of rent arrears equated to or exceeded an amount that is the equivalent of 6 months’ rent under the Tenancy Agreement.
5. At the date of making the Application, the cumulative amount of rent arrears equated to or exceeded an amount that is the equivalent of 6 months’ rent under the Tenancy Agreement.
6. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 25 May 2023.
7. The Application was served on the Respondent on 2 August 2023.

## **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act.

In terms of section 51 of the Act, the First-tier Tribunal may issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 12A which states :

- (1) *It is an eviction ground that the tenant has substantial rent arrears.*
- (2) *The First-tier Tribunal that the ground named in paragraph 1 applies if –*
  - (a) *the tenant has accrued rent arrears under the tenancy agreement in respect of one or more periods,*
  - (b) *the cumulative amount of those rent arrears equates to, or exceeds, an amount that is the equivalent of 6 months' rent under the tenancy agreement when notice to leave is given to the tenant on this ground in accordance with section 52(3), and*
  - (c) *the tribunal is satisfied that it is reasonable to issue an eviction order.*

The Tribunal considered the statement of rent arrears provided and determined that the ground for eviction had been established. In the absence of any submission by the Respondent that it would not be reasonable to grant an order for eviction, and in light of the submission made by the Applicant, the Tribunal determined that it was reasonable to issue an eviction order.

### **Decision**

The Tribunal grants an order for possession of 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.**

**Date: 28 August 2023**