

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18 of the Housing (Scotland) Act 1988.**

**Chamber Ref: FTS/HPC/EV/22/0199**

**Re: Property at 1/3 29 Oakfield Avenue, Glasgow, G12 8LL (“the Property”)**

**Parties:**

**HJC Properties, 11 Athole Gardens, Glasgow, G12 9AZ (“the Applicant”)**

**Mr Eric Lee, 1/3 29 Oakfield Avenue, Glasgow, G12 8LL (“the Respondent”)**

**Tribunal Members:**

**Karen Kirk (Legal Member) and Mary Lyden (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order against the Respondent for possession of the Property under Section 18 of the Housing (Scotland) Act 1988.**

## **1. Introduction**

This Hearing was a further Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules concerning an Application for Recovery of Possession of an Assured Tenancy under the Housing (Scotland) Act 1988. The purpose of the Hearing being to further explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained. It understood a final decision on the Application could also be made.

## **2. Attendance and Representation**

Mr John Perdikou attended for the Applicant.

The Respondent did not attend. He did not provide written representations to the Tribunal. The Respondent was served by Sheriff Officer on 18<sup>th</sup> October 2022.

### **3. Preliminary Matters**

The Respondent was not present. The Applicant said there had been less and less contact of late. The applicant's obtained a Payment Order for rent arrears against the Respondent for £10,885 and there had been contact on that.

The Tribunal noted the application had been amended on a number of occasions prior to a CMD being fixed and further documentation was lodged by the Applicant.

There were no other preliminary matters arising.

### **4. Case Management Discussion**

*For the Applicant*

The Applicant sought an order for repossession of the property. The position was that although the Respondent was making at present the monthly contractual amount under the tenancy there had been nothing paid towards the substantial arrears for some years. The Applicant relied on Ground 12 of Schedule 5 to the 1988 Act that rent was lawfully due by the Respondent. The Applicant said the Respondent had been getting regular statements and a letter signposting the Respondent to obtain help and assistance.

The Applicant said he would have accepted a proposal towards arrears to avoid the application but for a significant time nothing has been forthcoming.

The Applicant explained the Respondent's date of birth is, 8/5/78, he is not working. and prior to covid had been working and assisting in events. At that time he would make lump sum payments and the Applicant had no issue with this. The Applicant did not know of any reason why the Respondent could not work and at this time believes the Respondent to be in receipt of benefits. The Respondent is getting housing benefit and this is paying the current amount of rent but this had not been applied for some time and the arrears are over £10, 000.

The Applicant explained the property was a room in a terrace property with 6 others tenants and shared spaces. The Applicant also confirmed that both Council Tax and heating costs were included in the monthly rent.

### **5. Findings in Fact and Law**

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Tribunal was in receipt of a number of pieces of evidence relevant to the facts sufficient to allow the Tribunal to make a decision. The Respondent**

had been served by Sheriff Officer and had made no written representations.

2. The Respondent entered into an assured tenant in terms of the 1988 Act on 14<sup>th</sup> April 2012. Contractual monthly rent payable was £385. As at 11<sup>th</sup> March 2022 the Respondent was in arrears of rent to the amount of £10,885. The Applicant obtained a Payment Order for this amount issued by the First Tier Tribunal and granted on 21 July 2022. No payments to same or to the rent arrears have been made by the Respondent for some years.
3. In terms of Section 19 of the 1988 Act the Applicant delivered a Notice of intention to raise proceedings for possession against the Respondent on 29<sup>th</sup> June 2022. The Applicant has provided evidence in the application that same was delivered. This Notice narrates the Grounds being relied on by the Applicant to seek recovery of Possession under Ground 12, Schedule 5 of the 1988 Act, rent lawfully due by the Respondent. A Notice to Quit was also given.
4. The necessary Section 11 notice sent to the relevant local authority.
5. The Tribunal found Ground 12, Schedule 5 of the 1988 Act to be established in that some rent was lawfully due from the tenant and was unpaid on the date on which the proceedings for possession begun. The Applicant provided evidence of complying with the pre-action requirements.
6. In considering reasonableness as require in balancing the circumstances of both parties the Tribunal noted that the Respondent was single, not working and he did have evidenced vulnerability. The Tribunal also noted that the Applicant had taken steps to attempt to come to repayment arrangements with the Respondent. The Applicant had sought and been granted a Payment Order by the Tribunal first. He was then not able to resolve the rent arrears. The Tribunal found that it was reasonable to grant the Order sought.
7. Accordingly in terms of Section 18 of the 1988 Act the Tribunal granted an order against the Respondent for possession of the Property.

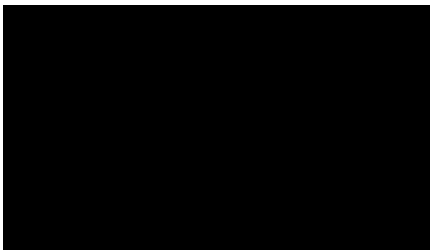
## **6. Reasons for Decision**

The Tribunal considered that the Application was full after a number of amendments and requests for further information before the hearing. The facts were sufficient to grant the Order. The Applicant had complied with the relevant statutory provisions and the question for the Tribunal was whether the Order sought was reasonable. Whilst the Respondent was single and not working he was not able to make any payments to significant rent arrears over a period of years. The Applicant were unable to gain any payments towards the rent arrears for a significant period of time.

Accordingly in the circumstances the Tribunal considered it was reasonable to grant the Order.

### **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.**



**23rd November 2022**

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**Legal Member/Chair**

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**Date**