



**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/22/2369**

**Re: Property at Flat 3/1 21 Brodie Drive, Glasgow, G69 6FD (“the Property”)**

**Parties:**

**Lowther Homes Limited, 25 Cochrane Street, Glasgow, G1 1HL (“the Applicant”)**

**Mr Scott Young, Flat 3/1 21 Brodie Drive, Glasgow, G69 6FD (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Helen Barclay (Ordinary Member)**

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

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

**Background**

1. An application was received by the Housing and Property Chamber dated 16<sup>th</sup> July 2022. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to ground 12 of the Private Housing (Tenancies) Act 2016.
2. The Tribunal had before it:
  - a. Copy Scottish Government Model Private Residential Tenancy Agreement with commencement of tenancy being 11<sup>th</sup> September 2020;
  - b. Notice to Leave dated 26<sup>th</sup> April 2022 stating an application would not be submitted to the Tribunal before 27<sup>th</sup> May 2022;
  - c. Section 11 notice noting proceedings would not be raised before 16<sup>th</sup> July 2022;

- d. Rent statement from 11<sup>th</sup> September 2020 to 10<sup>th</sup> October 2022. This detailed the rent of £532.63 per month and arrears of £5652.55; and
  - e. Copy email dated 26<sup>th</sup> April 2022 serving Notice to Leave upon the Respondent; and
  - f. Pre Action Requirement letters dated 30<sup>th</sup> November 2021 and 7<sup>th</sup> March 2022.
3. The Tribunal also had before it a copy of the title deeds numbered LAN215429.
  4. On 8<sup>th</sup> September 2022 all parties were written to with the date for the Case Management Discussion (“CMD”) of 24<sup>th</sup> October 2022 at 10am by teleconferencing. The letter also requested all written representations be submitted by 29<sup>th</sup> September 2022.
  5. On 9<sup>th</sup> September 2022, sheriff officers served the letter with notice of the hearing date and documentation upon both of the Respondents. This was evidenced by Certificate of Intimation dated 9<sup>th</sup> September 2022.
  6. The case was conjoined with case FTS/HPC/CV/22/2372.

#### The Case Management Discussion

7. A CMD was held on 24<sup>th</sup> October 2022 at 10am by teleconferencing. The Applicant was represented by Mr David Adams, solicitor, The Wheatley Group. The Respondent was not present and not represented. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make representations in advance of the hearing.
8. Mr Adams told the Tribunal that the last contact from the Respondent was when he called the Applicant’s contact centre to make a payment in March 2022. The last discussion with the Respondent was in December 2021. He had said that payments had been erratic due to being in and out of employment. He had PTSD and was not sleeping which was causing him issues with his employment. The Respondent offered to pay £800 per month but failed to make a payment of that amount. The Respondent has been written to on various occasions and there has been no response from him. There have been numerous months that the direct debit payment has bounced causing the arrears to have accrued further. The most recent payment was a direct debit that did not bounce. That payment has now been processed. However, there still has not been any contact from the Respondent regarding addressing the arrears.
9. The Tribunal considered that while the Respondent had recently made some of the monthly rental payments he had not done so consistently or made contact with the Applicant to discuss the position. This has meant that the Applicant does not know whether the payments will continue after latest payment, which was made on 19<sup>th</sup> October 2022 or if it is sustainable for him to continue to make the payments. The Tribunal was satisfied that an order for eviction was appropriate.

### Findings and reason for decision

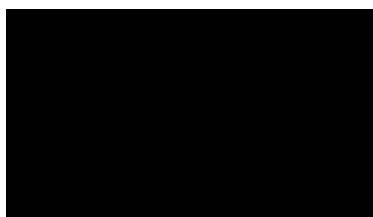
10. A Private Rented Tenancy Agreement commenced 11<sup>th</sup> September 2020.
11. The Respondent has persistently failed to pay his rent charge of £543.63 per month. The rent payments are due to be paid on 1<sup>st</sup> day of each month.
12. Though payments have been made they have been sporadic. Even since the Notice to Leave was served there still have been bounced direct debit payments. The Respondent still has not contacted the Applicant to make a payment proposal or discuss his personal situation that has led to the arrears. The Respondent has had the opportunity to attend this CMD or make representations but has failed to do so.
13. The arrears sought in the application was £6386.79. Since that point the arrears have reduced to £5057.42.
14. Arrears accrued to more than one months rent payment at the date of application and was more than three months rent payments at the date of the hearing.

### Decision

15. The Tribunal found that ground 12 has been established and there were no sufficient issues of reasonableness to prevent the granting of an eviction. The Tribunal granted an order in favour of the Applicant.

### **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.**



**Legal Member/Chair**

**24<sup>th</sup> October 2022**  
**Date**