



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/22/2570**

**Re: Property at 108 Poplar Street, Greenock, PA15 2RB (“the Property”)**

**Parties:**

**Martin Docherty Limited, 40 Brisbane Street, Greenock, PA16 8NP (“the Applicant”)**

**Mr Alexander Williams Montgomery, 108 Poplar Street, Greenock, PA15 2RB (“the Respondent”)**

**Tribunal Members:**

**Anne Mathie (Legal Member) and Melanie Booth (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 repossession of the Property be granted.**

**Background**

1. An application dated 26 July 2022 was submitted to the Tribunal in terms of Rule 109 of the Chamber Rules being an application for a Private Residential Tenancy Eviction Order along with an application for a civil payment order for rent arrears (FTS/HPC/CV/22/2571).
2. Along with the application form was lodged a copy of the tenancy agreement, a copy rental statement, section 11 notice, authorisation letter and a Notice to Leave including PAR letters.
3. The application was acknowledged by the Tribunal by email dated 28 July 2022 with instruction about email attachments. The Tribunal also requested clarification of the Respondent’s email address.

4. The Applicant's agents replied by email of 29 July 2022 confirming the Respondent's email address.
5. The Applicant's agents emailed the Tribunal again on 6 September with a new contact telephone number for the Respondent and confirming that, while the current balance on the account for rent arrears was £4572.62 the payment order requested in the civil application was £1757.62 as a previous payment order for rent arrears had been granted by the Tribunal on 16 February 2022 for the sum of £2815.
6. The application was set down for a case management discussion today. Intimation of the application and Case Management Discussion was served on the Respondent. The Respondent was advised that he was required to submit any written representations to the Tribunal by 18 October 2022. No written representations have been received.
7. The Respondent was advised in the letter that he was required to take part in today's case management discussion. He was further advised:  
*"The Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision on the application which may involve making a decision on the application which may involve making or refusing a payment order. If you do not take part in the case management discussion, this will not stop a decision or order being made by the Tribunal if the Tribunal considers that it has sufficient information before it to do so and the procedure has been fair."*

#### The Case Management Discussion

8. The case management discussion took place today by teleconference. Ms Kellie Deans, Office Manager, Penny Lane Homes in Johnstone appeared on behalf of the Applicant. There was no appearance by or on behalf of the Respondent.
9. Ms Deans spoke to the application and advised that attempts had been made to enforce the previous payment order granted by the Tribunal in February 2022 but there had been no success in recovering any funds. She was not aware of the circumstances of the Respondent. She was not aware whether he had any children living with him although believed him to have a partner. She was unaware whether the Respondent had any illnesses or vulnerabilities. The Applicant's agents had applied for the housing element of Universal Credit to be paid directly to them and sometimes got it and sometimes didn't which led her to believe that the Respondent's earnings fluctuated. She believed him to work for Amazon at one point. Many attempts had been made by the Applicant's agents to engage with the Respondent about rent arrears. He was refusing to engage. They had had to get an access order to undertake safety checks on the Property in recent months.

## Findings in Fact

10. -the parties had entered into a Private Residential Tenancy Agreement commencing 20 September 2019
  - under the terms of the tenancy agreement rent was due to be paid in the sum of £395 per calendar month
  - rent arrears had accrued over a long period and now stood in the sum of £4524.62
  - steps had been taken to enforce a previous payment order granted by the Tribunal in February 2022 without success
  - a valid Notice to Leave had been served on the Respondent

## Reasons for Decision

11. The Tribunal took into account the papers and evidence before it along with the oral submissions of the Applicant's agent. There was nothing challenging the information before the Tribunal. In determining whether granting the repossession order was reasonable, the Tribunal took into account the long history of rent arrears, the efforts made by the Applicant's agents to engage with the Respondent including complying with the Pre-action Requirements and the steps taken by the Applicant's agents to reduce the level of arrears including applying and securing a grant of £250 from the local authority. Against this, there was no information directly from the Respondent about his circumstances. There was little information held by the Applicant's agents about the Respondent's circumstances. In all the circumstances, it was reasonable to grant the order for repossession of the Property.

## Decision

12. The Tribunal decided to grant the order for repossession 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.**

# A Mathie

**4 November 2022**

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**Legal Member**

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**Date**

Anne Mathie

