



**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/22/3328**

**Re: Property at 134C Main Street, Alexandria, G83 0NZ (“the Property”)**

**Parties:**

**Sajith Unnikrishnan, 110A Napier Road, Gillingham, Kent, ME7 4HG (“the Applicant”)**

**Christopher Davies, Victoria Banks, 134C Main Street, Alexandria, G83 0NZ; 134C Main Street, Alexandria, G83 0NZ (“the Respondents”)**

**Tribunal Members:**

**Valerie Bremner (Legal Member) and Elaine Munroe (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that the Respondents have been in rent arrears for three or more consecutive months and it is reasonable on account of that fact to grant the order.**

**Background**

1.This application for an eviction order was first lodged with the Tribunal on 12<sup>th</sup> September 2022 and accepted by the Tribunal on 7<sup>th</sup> October 2022.A case management discussion was first fixed for 6<sup>th</sup> January 2023 at 2pm.

**Case Management Discussion**

2.The case management discussion was attended by Mr Gray from Gilson Gray solicitors who represented the Applicant. There was no appearance from either of the Respondents and the Tribunal had received an email in the morning of 6<sup>th</sup> January 2023 indicating that one of them had suffered a family bereavement and would have to postpone or reschedule. Although it was not clear which of the Respondents had

submitted the e mail, the Tribunal felt it appropriate to treat this as a postponement request and after consideration the Tribunal postponed the case management discussion to a later date to allow the Respondents to participate.

3.The case management discussion was adjourned to 23<sup>rd</sup> February 2023 at 2pm.The Applicant was again represented by Mr Gray from Gilson Gray solicitors. There was no appearance by either of the Respondents. The Tribunal was aware that the continued case management discussion had been intimated to the Respondents by recorded delivery and these letters had been signed for by the Respondent Victoria Banks. Mr Gray moved the Tribunal to proceed in their absence. The Tribunal was satisfied that fair notice of the proceedings had been given to the Respondents and that it was appropriate to proceed in their absence.

4.The Tribunal had sight of the Application, a paper apart, a private residential tenancy agreement, Notices to Leave, executions of services of these notices by Sheriff Officer, a rent arrears statement, a notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003, an email sending this to West Dunbartonshire Council, pre action protocol letters, an up-to-date rent arrears statement and an email from the Applicant's representative.

5.The Applicant entered into a private residential tenancy with the Respondents at the property with effect from 24<sup>th</sup> January 2022.The monthly rent payable in terms of the agreement was £400 per month payable in advance on 4<sup>th</sup> of each month. The Respondents had fallen into arrears in May 2022 and the rent had remained in arrears since that time. The last rent payment had been made in September 2022 in the sum of £100.As of 9<sup>th</sup> September 2022 the rent arrears were £1680.At the case management discussion on 23<sup>rd</sup> February 2023 the rent arrears had reached £3680.

6.Mr Gray advised the Tribunal that there had been no contact with the Respondents since September 2022.The landlord Applicant rented out this single property which had a secured loan over it.Over the months in which the rent arrears had increased the Applicant had struggled to maintain the mortgage. Mr Gray advised that damage had been caused to the optometrist's shop below the property by water ingress which appeared to relate to a shower at the property being left to run periodically. The landlord had paid for repairs for the neighbouring property on these occasions as it appeared that the Respondents were not cooperating with allowing emergency personnel to go into the property to deal with the water ingress issues. Mr Gray indicated that the Respondents appeared to be able to resolve the water ingress issues and he indicated that it was thought they may be leaving the shower to run deliberately. Mr Gray said that there had now been a breakdown of trust between the landlord and the tenants.

7.Mr Gray advised the Tribunal that he had little information regarding the Respondents. He understood that only the two Respondents lived at the property and there were no children living there. He was not aware of any health issues or disability suffered by either of the Respondents or their ages and understood that they had never mentioned any difficulties to the Applicant landlord. It was known that they were in receipt of universal credit and at times when the arrears had been raised the Respondents had advised the Applicant that they would pay towards the arrears when benefits arrived. Mr Gray indicated that the Respondents, particularly Mr Davies had

had made countless offers of payment of the arrears and the Applicant had agreed to allow the arrears to be cleared in September 2022 after Notices to Leave had been served but despite giving extra time nothing had resulted by way of payment of the rent arrears. At no time had any delay or failure in the payment of benefits to the Respondents ever been suggested to the Applicant as a reason for the rent arrears accruing. Mr Gray indicated that the landlord had not attempted to have benefits paid directly to him as it was not clear if the Respondents received universal credit with a housing benefit element to it.

8.The Tribunal noted that pre action protocol letters had been sent to the Respondents in August 2022 signposting them to sources of support. In addition, the Tribunal had sight of Notices to Leave which appeared to be in proper form and served giving appropriate notice to the Respondents.

9.A notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 was intimated in this case to the appropriate local authority.

10,The Tribunal was satisfied that it had sufficient information upon which to make a decision and that the proceedings had been fair.

### **Findings in Fact**

11.The Applicant and Respondents entered into a private residential tenancy agreement at the property with effect from 24<sup>th</sup> January 2022.

12.The rent payable in terms of this agreement is £400 per month payable in advance on the 4<sup>th</sup> of each month,

13.The Respondents fell into rent arrears in May 2022.

14.Rent arrears continued to accrue and in September 2022 stood at £1680.

15.No rent has been paid by the Respondents in terms of the agreement since September 2022 when £100 was paid.

16.As of the date of the case management discussion on 23<sup>rd</sup> February 2023 rent arrears stood at £3680.

17.The Respondents have been in rent arrears for more than three consecutive months at the property.

18.Notices to Leave in proper form and giving appropriate notice of the Applicant's intention to apply to the Tribunal for an eviction order due to rent arrears over three or more consecutive months were served on the Respondents by Sheriff Officer on 11th August 2022.

19.Letters were sent to the Respondents in August 2022 by the Applicant's representative in terms of the pre action protocols, signposting them to sources of support.

20.A notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 was intimated to West Dunbartonshire Council in relation to this application.

21.The Applicant has a loan over the property and is struggling to maintain payments on this loan with the rent arrears which have accrued in terms of the tenancy agreement.

22.The Applicant received offers to pay the arrears from the Respondents and indicated that he would consider these but despite this the arrears were not cleared and continue to accrue.

23.Given the circumstances in this application it is reasonable to grant the order.

### **Reasons for Decision**

24.The Tribunal was satisfied that the eviction ground was made out in this application. It then required to consider whether it was reasonable to grant the order. In this application it accepted that the Applicant landlord is struggling to keep up payments on the mortgage at the property due to the failure to pay rent. Numerous offers to pay the arrears have come to nothing. The Respondents have not contacted the Applicant since September 2022 and it is understood the Respondents are the only occupants at the property and there are no known issues regarding their position which the Tribunal could take into account. In all of the circumstances the Tribunal determined that it was reasonable to grant the order.

### **Decision**

The Tribunal determined that an eviction order be granted in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that the Respondents have been in rent arrears for three or more consecutive months and it is reasonable on account of that fact 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.**



**Valerie Bremner  
Legal Member/Chair**

**23 February 2023  
Date**