



**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/22/2802**

**Re: Property at 2/1 40 Enterkin Street, Glasgow, G32 7BA (“the Property”)**

**Parties:**

**Mr Peter Aitchison, 5 Whitehill Gardens, Dennistoun, G31 2PR (“the Applicant”)**

**Ms Alicja Bialkowska, Dariusz Nienaszew, 2/1 40 Enterkin Street, Glasgow, G32 7BA (“the Respondents”)**

**Tribunal Members:**

**John McHugh (Legal Member) and David Fotheringham (Ordinary Member)**

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

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

**Background**

The Applicant is the landlord and the Respondents are the tenant of the Property in terms of a short assured tenancy. The Applicant seeks possession of the Property on the grounds of the non-payment of rent by the Respondents.

**The Case Management Discussion**

A Case Management Discussion took place by telephone conference on 18 January 2023. The Applicant was represented by his solicitor, Miss Morrison. The Respondents were neither present nor represented. The Tribunal was satisfied that the Respondents had been provided with notice of the hearing and elected to proceed in their absence.

## **Findings in Fact**

The Applicant is the landlord and the Respondents are the tenant of the Property in terms of a short assured tenancy agreement dated 12 July 2012.

In terms of the tenancy agreement, rent is payable at the rate of £450 per month.

At the time of presentation of the application to the Tribunal, rent arrears amounted to £26,270.

The arrears have increased since then.

The Respondents remain in occupation of the Property.

## **Reasons for Decision**

The Tribunal is required to consider whether it would be reasonable to make an eviction order. The Respondents have not made any contact with the Tribunal. The Tribunal has no information as to the reason for non-payment nor as to the circumstances of the Respondents other than that Miss Morrison believes that the Respondents have two children and a parent in their household.

There was little evidence available to the Tribunal of compliance by the Applicant with the pre-action requirements introduced to protect tenants affected by the pandemic. The only effort which the Applicant's solicitor could bring to our attention was a letter from the Applicant's solicitor to the Respondents warning them of the intention to raise proceedings. Nonetheless, the Tribunal is obliged to have regard to the extraordinary level of non-payment by the Respondents in this case. Significant amounts of rent have been overdue since 2014 and arrears continue to increase with each day. In the circumstances, the Tribunal considers it reasonable to grant an order for possession of the Property in favour of the Applicant.

## **Decision**

**An Order for possession of the Property will be made 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.**

# John McHugh

John McHugh, Legal Member/Chair

\_\_\_\_\_ 18 January 2023 \_\_\_\_\_  
Date