



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

**Chamber Ref: FTS/HPC/EV/22/3422**

**Re: Property at 68 Denholm Crescent, East Kilbride, G75 0BU (“the Property”)**

**Parties:**

**Mr Inderdip Lalli, 27 Sunningdale Avenue, Newton Mearns, Glasgow, G77 5PD (“the Applicant”)**

**Mr Sasha Dimitrov, Ms Emilia Angova, 68 Denholm Crescent, East Kilbride, G75 0BU (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Ahsan Khan (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order.**

**Background**

The Applicant seeks an Eviction Order under ground 12 of Schedule 3 of the Act in that it is said that: the Respondents are in arrears of rent of at least one month’s worth of rent; have been so in arrears for at least three months and that it is reasonable to grant an eviction order.

There have been previous Case Management Discussions setting out case management orders in the form of directions regulating further procedure in advance of this Hearing.

## **The Hearing**

The Application called for a Hearing by conference call at 10 am on 25 July 2023. The Applicant was personally present. The Respondents were not present but their representative, Mr Bird of Hamilton Citizens Advice Bureau was in attendance. Mr Bird confirmed that he had made his clients aware of the Hearing and had tried to get hold of them. He had no explanation for their non-attendance. A Bulgarian interpreter had been arranged and was present for the Hearing. The interpreter left the call when it was apparent that the Respondents were not going to join. The Tribunal noted that the Respondents had also failed to appear at the previous CMD held on 12th May. Having considered matters, the Tribunal decided to proceed in the absence of the Respondents.

The Tribunal heard from the Applicant who spoke in support of the Application. The Tribunal questioned the Applicant carefully. The Tribunal afforded Mr Bird the opportunity of questioning the Applicant. He elected not to do so. The Tribunal adjourned to reflect on all that had been said in addition to all that had been read in the documentation before the Tribunal.

Having done so, the Tribunal made the following findings in fact.

## **Findings in Fact**

- I. *The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondents. The tenancy agreement itself was set out in the form of a brief single paged letter dated 17 March 2019 confirming a date of entry of 1 April 2019;*
- II. *The tenancy provided for a contractual monthly rent of £380.00;*
- III. *The Respondents fell into rent arrears and as at today's date they owe the Applicant the sum of £13,300.00. They have not paid any rent since December 2022;*
- IV. *The Respondents have instructed their agent to advance a position that all rental payments were made by cash. They have provided no evidence whatsoever of these payments being made. The Applicant has conversely lodged evidence showing certain sums having been paid by the Respondents by bank transfer. This documentary evidence is in conflict with the position that the Respondents instructed their representative to advance;*
- V. *There is nothing to suggest that the Respondents have any intention of settling their arrears of rent or even paying the contractual monthly rent;*

- VI. *The Respondents are thought to be receiving money from state benefits to pay for their rent, which they are simply retaining or using for other purposes;*
- VII. *The Applicant competently served a notice to leave under ground 12 and had complied with s11 of the Homelessness (etc) (Scotland) Act 2003;*
- VIII. *The Applicant has made efforts to resolve matters by discussing payment with the Respondents;*
- IX. *Ground 12 of Schedule 3 of the Act was established both at today's date and at the date of service of the notice to leave;*
- X. *It is reasonable that an Eviction Order is granted.*

### **Reasons for Decision**

Having made the above findings in fact, the Tribunal decided to grant the Application and made an Eviction 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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.**

**Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.**

**Andrew McLaughlin**

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**Legal Member/Chair**

**25 July 2023**

**Date**