



**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/22/3973**

**Re: Property at 20 Gindera Road, Montrose, DD10 8SU (“the Property”)**

**Parties:**

**Mr John Grimes, 19 Murray Lane, Montrose, DD10 8LF (“the Applicant”)**

**Mr William McDonald Jnr, Mrs Shannon McDonald, 20 Gindera Road, Montrose, DD10 8SU; 20 Gindera Road, Montrose, DD10 8SU (“the Respondents”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Mary Lyden (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.**

**Background**

1. The Applicant submitted an application under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondents from the property.
2. A case management discussion (“CMD”) took place on 13 March 2023. A Note summarising the CMD was issued to parties.

### **The case management discussion**

3. The CMD took place by conference call. The Applicant was represented by Mr Robin Beattie. The Respondents did not join the conference call and the discussion proceeded in their absence. This case called alongside a related case which proceeds under chamber reference FTS/HPC/CV/22/3974.
4. The Applicant's representative explained that there has been no contact from the Respondents. They have not been living in the property and have not asserted their right to occupy the property since the last CMD. The property is being renovated at present and the Applicant remains apprehensive that the Respondents may return to occupy the property. The rent arrears due by the Respondents when this application was made amounted to £19,125. The Respondents have not made any payment or offered any payment arrangement. The Respondents' guarantor has agreed settlement terms in relation to the payment claim, but those terms have not been implemented. The up to date circumstances of the Respondents are unknown to the Applicant. It was submitted that it was reasonable in all of the circumstances to grant the order for eviction.

### **Findings in Fact**

5. The parties entered into a private residential tenancy which commenced 3 March 2020.
6. The Applicant's representative served a Notice to Leave on the Respondents by sheriff officer on 1 September 2022.
7. The Respondents have been in rent arrears for over three consecutive months.

### **Reason for Decision**

8. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Respondents did not participate in the CMD and did not lodge written submissions. There was nothing to indicate that the Respondents disputed the claim or opposed the application for eviction. The Tribunal formed the conclusion that the tenancy is not sustainable by the Respondents, given the very significant arrears and the fact there is no proposal to pay.
9. The Notice to Leave was served on the Respondents more than 11 months ago. The Respondents have left the property but have not renounced the tenancy.

### **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.**

**Nicola Irvine**

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**Legal Member/Chair**

**24 August 2023**  
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**Date**