

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/19/2817**

**Re: Property at 54 Kessington Road, Bearsden, Glasgow, G61 2HJ (“the Property”)**

**Parties:**

**Mr David Frod, c/o 4 Chancellor Street, Glasgow, G11 5RQ (“the Applicant”)**

**Mr Scott Bryan, Mrs Michelle Bryan, 54 Kessington Road, Bearsden, Glasgow, G61 2HJ (“the Respondents”)**

**Tribunal Members:**

**Nicola Irvine (Legal 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 to recover possession of the property.**

**Background**

The Applicant submitted an application seeking an order to evict the Respondents from the property at 54 Kessington Road, Bearsden. The Tribunal issued a letter to the parties dated 18<sup>th</sup> October 2019 advising them of the date, time and place of today’s case management discussion. In that letter, the parties were also told that they required to attend the hearing and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondents were invited to make written representations by 8<sup>th</sup> November 2019. No written representations were received from the Respondents.

## **The Case Management Discussion**

The Applicant was represented by Miss Annette Hanna from Victoria Letting Ltd and was accompanied by Mr Ian Barclay. The case management discussion proceeded in the absence of the Respondents.

The Tribunal noted that there were no written representations made by the Respondents and the Tribunal was therefore unaware of the Respondents' position. The Applicant's representative advised that there has been no recent contact from the Respondents and it is believed that the Respondents have removed from the property.

The Applicant's representative advised that the order for eviction was sought on the basis of grounds 11 & 12 of schedule 3 of the 2016 Act. The Respondents are said to have breached the terms of the tenancy agreement in respect that there is internal damage to the property relating to the blinds and the décor; externally, there has been a failure by the Respondents to maintain the garden at all throughout the tenancy. In respect of rent arrears, the Applicant's representative advised that there have been no payments since June 2019 and the arrears of rent now stand at £5,000. An up to date rent statement was produced.

## **Findings in Fact:**

1. The Applicant and the Respondents entered into a Tenancy Agreement dated 25<sup>th</sup> July 2018.
2. The rent payable was £900 per month, payable in advance.
3. The Applicant served Notice to Leave by email on 6<sup>th</sup> August 2019.
4. No rent has been paid by the Respondents since 27<sup>th</sup> June 2019. The Respondents are therefore in arrears of rent for a sum which equates to more than 3 consecutive months of arrears.
5. The Applicant is entitled to the Order sought for repossession.

## **Reason for Decision**

The Tribunal proceeded on the basis of the written documents which were before it and the submissions made at the case management discussion. The Respondents were given an opportunity to provide written representations to the Tribunal; they failed to do so and they failed to attend the case management discussion. The Applicant's representative invited the Tribunal to make the Order sought. The Applicant relied upon Grounds 11 & 12 of Schedule 3 of the 2016 Act. The Notice to Leave had been properly served. Whilst the information about a breach of the terms

of the tenancy *alone* would not have persuaded the Tribunal to grant the order for eviction, the Tribunal was satisfied that Ground 12 had been established, which is of course a mandatory ground of eviction. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

### **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.**

  
Legal Member/Chair

20<sup>th</sup> November 2019  
Date