



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section Housing (Tenancies) (Scotland) Act 2016.**

**Chamber Ref: FTS/HPC/EV/19/0305**

**Re: Property at Flat 1/1, 11 Marne Street, Glasgow, G31 2TD (“the Property”)**

**Parties:**

**Mr Dominik Andrzejczak, 30 Morar Road, Glasgow, G52 1AX (“the Applicant”)**

**Mr Joseph McGreechin, Flat 1/1, 11 Marne Street, Glasgow, G31 2TD (“the Respondent”)**

**Tribunal Member:**

**Martin McAllister (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:**

**An eviction order be granted against the Respondent in respect of the Property.**

**Background**

**This is an application under Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ( the 2017 Regulations) for an Eviction Order in respect of the Property in terms of Section 16 of the Private Housing ( Tenancies) (Scotland) Act 2016. ( the 2016 Act) The Application is dated 24<sup>th</sup> January 2019. The Application is seeking an order for eviction under Ground 12 of Part 3, Schedule 3 of the 2016 Act.**

**Documents before the Tribunal**

- **The Application**
- **Private Residential Tenancy Agreement dated 29<sup>th</sup> May 2019**
- **Notice to Leave dated 11<sup>th</sup> December 2018.**

- Sheriff Officer's Certificate of intimation of service of Notice to Leave dated 12<sup>th</sup> December 2018.
- Schedule of rent payments.
- Notice under Section 11 of the Homelessness etc (Scotland) Act 2003

### **The Case Management Discussion**

**Both the Applicant and the Respondent were present.**

### **Preliminary Matters**

**The Notice to Leave was discussed. It was served on 12<sup>th</sup> December 2018 and indicated that no application to the Tribunal would be made prior to 9<sup>th</sup> January 2019. The Respondent argued that this gave twenty eight days notice which would have been required in terms of the 2016 Act and, if the Tribunal considered that this only gave twenty seven days notice then he invited the Tribunal to exercise discretion in terms of Section 52 (4) of the 2016 Act. The respondent raised no objection and I exercised discretion and entertained the Application.**

### **Findings in Fact**

- 1. The Respondent was party to a Private Residential Tenancy Agreement dated 29<sup>th</sup> May 2019.**
- 2. The monthly rent due by the Respondent is £495.**
- 3. A valid Notice to Leave was served on the Respondent on 12<sup>th</sup> December 2018.**
- 4. A valid notice under Section 11 of the Homelessness etc.( Scotland) Act 2003 was served on the relevant local authority.**
- 5. The Respondent is in arrears of rent amounting to £3,465.**
- 6. The Respondent has made no payment of rent since 14<sup>th</sup> September 2018.**
- 7. The Respondent's failure to pay rent is not due to a delay or failure in payment of state benefits.**

### **Reasons**

**The Respondent stated that he had not paid rent since 14<sup>th</sup> September 2018. He said that, because of health issues, he had lost his job and become in receipt of benefits which were not enough for him to pay the rent. He said that there had been no delay in payment of any benefit. It was simply that he did not have enough money. The Respondent accepted that he was in arrears of rent as set out by the Applicant.**

The Applicant said that no rent had been paid since September and that the criteria of Ground 12 were met- that the Respondent is in arrears of rent by an amount equal to or greater than one month's rent and has been in arrears for a continuous period of three or more consecutive months.

I considered that the documentation submitted with the Application supported the application for an order of eviction. I also noted that parties were in agreement with regard to the level of arrears of rent. I found the terms of Ground 12 to be met and granted the 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.

Martin McAllister

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**Martin J. McAllister**  
**Legal Member/Chair**

4<sup>th</sup> April 2019