



**Decision 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/22/2442**

**Re: Property at 75 Whittingehame Court, Glasgow, G12 0BH (“the Property”)**

**Parties:**

**Professor Patrick O Dwyer, Ms Cindy Chew, 29 Westbourne Gardens, Glasgow, G12 9PE (“the Applicants”)**

**Mr Ross Denham, 75 Whittingehame Court, Glasgow, G12 0BH (“the Respondent”)**

**Tribunal Members:**

**Nairn Young (Legal Member) and Jane Heppenstall (Ordinary Member)**

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

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

- Background

This is an application for an eviction order against the Respondent, who occupies the Property in terms of a private residential tenancy agreement with the Applicants. It called for a case management discussion (‘CMD’) at 10am on 10 February 2023, by teleconference. The Applicants were represented on the call by Ms McKendrick of Tay Letting Ltd. The Respondent was not on the call and was not represented. The commencement of the CMD was postponed by 10 minutes to allow for any technical difficulty he may have been experiencing, but there remained no contact from him.

The matter had called for a CMD previously on 2 November 2022. The Respondent had also failed to attend that CMD. A direction had been made requiring various additional information from him and specifying that, should he fail to respond to it and/ or fail to attend the CMD to follow, an order may be made against him. Notification of the new date for the CMD was sent to the Respondent by recorded to delivery on 12 December 2022. The Tribunal was satisfied that he was aware of the new date and had chosen not to attend. On that basis it considered it was fair to proceed in his absence.

- Findings in Fact and in Fact and Law
1. The Respondent occupies the Property in terms of a private residential tenancy with a start date of 20 March 2021.
  2. In terms of that agreement, rent of £725 is due to the Applicants on the first day of each month.
  3. No rent was paid by the Respondent on 1 March 2022.
  4. With the exception of one payment of £500 on 15 September 2022, no rent has been paid since.
  5. A notice to leave was sent by email on the Respondent by the Applicants on 7 June 2022, indicating that they would be seeking his eviction on Ground 12 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 ('the Act'), no sooner than 8 July 2022.
  6. The information required by the pre-action protocol prescribed by the Scottish Ministers was sent to the Respondent by the Applicants on 28 June 2022.
  7. On 21 July 2022, the Applicants gave notice to the local authority in terms of s.11 of the Homelessness etc. (Scotland) Act 2003.
  8. This application was raised on 28 July 2022.

9. It is reasonable to grant an order for the Respondent's eviction.

- Reasons for Decision

10. On the basis of the above, ground 12 has been made out. The Respondent's arrears are long-standing and significant; and he has not made any attempt to address them. There has been some suggestion from him, in communication with the Applicants' agents, of medical problems and other issues which may have prevented him making payment. When these were responded to in an attempt to engage constructively with him, he did not reply. He has not presented any of these concerns to the Tribunal, or indeed made any response to the application. This remained the case following the direction described above in the 'Background' section. The Tribunal therefore does not consider it can take these points into account.

11. Consequently, there has been nothing presented by the Respondent to suggest that it is not reasonable to make the order.

- Decision

### **Eviction order made.**

### **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.

# Nairn Young

16/02/2023

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Legal Member/Chair

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Date