



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

**Chamber Ref: FTS/HPC/EV/23/0683**

**Re: Property at 11b Aitchison Street, Airdrie, ML6 0DA (“the Property”)**

**Parties:**

**Sanam & Anmol Ltd, 165b Chapel Street, Airdrie, North Lanarkshire, ML6 6LH (“the Applicant”)**

**Mr Naheem Akhtar, 11b Aitchison Street, Airdrie, North Lanarkshire, ML6 0DA (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member) and Ahsan Khan (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property.**

**Background**

1. By application dated 3 March 2023 the Applicant’s representatives, Mailers, Solicitors, Stirling, applied to the Tribunal for an order for the eviction of the Respondent from the property under Grounds 12 and 12A of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) namely that the Respondent had rent arrears over three consecutive months and had substantial rent arrears at least equivalent to six months’ rent. The Applicant’s representatives submitted a copy of the tenancy agreement together with a Notice to Leave and Sheriff Officer’s execution of service, Pre-action correspondence, Section 11 Notice to Local Authority and a rent statement in support of the application. They also submitted a copy of the Applicant’s title and a copy of a prior order for payment awarded against the Respondent for non-payment of rent.

2. By Notice of Acceptance dated 22 March 2023 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 13 April 2023.

### **The Case Management Discussion**

4. A CMD was held by teleconference on 18 May 2023. The Applicant was represented by Miss Anna Duff. The Respondent did not attend nor was he represented. The Tribunal being satisfied that proper intimation had been given to the Respondent determined to proceed in his absence.
5. The Tribunal noted that the Respondent had accrued very substantial rent arrears and that a pre-action letter had been sent to the Respondent by recorded delivery post at the beginning of December 2022. The Tribunal noted that a Notice to Leave setting out the grounds for eviction had been served on the Respondent by Sheriff Officers on 22 December 2022 giving the Respondent until 23 January 2023 before an application to the Tribunal would be made.
6. The Tribunal also noted that a Section 11 Notice had been sent to North Lanarkshire Council intimating the proceedings by recorded delivery post on 3 March 2023.
7. Miss Duff advised the Tribunal that no payment of rent had been received since the application had been lodged and the Respondent continued to reside in the property. She said that she had no information as regards the Respondent’s circumstances but that it was reasonable to grant the order for eviction given the amount of rent that was due and the lack of communication from the Respondent who had made no attempt to agree a payment plan despite being given the opportunity to do so. He had made no attempt to communicate with the Applicant or his representatives since the application to the Tribunal was submitted and it was therefore reasonable for the order to be granted.

### **Findings in Fact**

8. The parties entered into a Private Residential tenancy that commenced on 2 June 2021 at a rent of £575.00 every four weeks but later changed by agreement to £575.00 per calendar month.
9. The Respondent has paid no rent since September 2021.

10. The Respondent was sent a pre-action letter by recorded delivery post in December 2022.
11. The Respondent was served with a Notice to Leave by Sheriff Officers on 22 December 2022.
12. A Section 11 Notice was intimated to North Lanarkshire Council by recoded delivery post on 3 March 2023.
13. As at the date of service of the Notice to Leave the Respondent had accrued rent arrears amounting to the equivalent of 15 months' rent arrears.
14. As at the date of the CMD the Respondent had accrued the equivalent of 19 months' rent arrears.

### **Reasons for Decision**

15. The Tribunal was satisfied from the written representations and oral submissions that the parties had entered into a Private Residential Tenancy agreement that commenced on 2 June 2021. The Tribunal was also satisfied that the Respondent had accrued very substantial rent arrears, the last rent payment having been made by the Respondent in September 2021.
16. The Tribunal was satisfied from the written representations and the oral evidence that proper pre-action correspondence had been sent to the Respondent and that he had been served with a valid Notice to Leave. The Tribunal was also satisfied that proper intimation of the proceedings by way of a Section 11 Notice had been sent to North Lanarkshire Council.
17. The Respondent was given the opportunity to submit written representations to the Tribunal and to attend the CMD but chose to do neither. He has offered no explanation as to why the rent has gone unpaid since September 2021. Given the very substantial level of arrears and the failure of the Respondent to engage with the Applicant, his representatives or the Tribunal, the Tribunal is satisfied that it is reasonable in the circumstances to grant the order for eviction.

### **Decision**

18. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing finds the Applicant entitled to an order for the eviction of the Respondent from the property.

## **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**

**18 May 2023**  
**Date**