

**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/23/1278**

**Re: Property at 9 Linden Lea, Hamilton, ML3 9AE (“the Property”)**

**Parties:**

**Mr Ian McGowan, Mr Mary McGowan, Flat 3, 2 Uddingston Road, Bothwell, G71 8PG (“the Applicant”)**

**Mr Christopher Syme, 9 Linden Lea, Hamilton, ML3 9AE (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Elizabeth Williams (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.**

**Background**

1. An application was received by the Housing and Property Chamber dated 20<sup>th</sup> April 2023. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 12A of the Private Housing (Tenancies) (Scotland) Act 2016 as amended.
2. On 23<sup>rd</sup> June 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 7<sup>th</sup> August 2023 at 10am by teleconferencing. The letter also requested all written representations be submitted by 13<sup>th</sup> July 2023.
3. The case was conjoined with case FTS/HPC/CV/23/1278.

4. On 23<sup>rd</sup> June 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 23<sup>rd</sup> June 2023.
5. On 24<sup>th</sup> July 2023, the Applicant emailed the Housing and Property Chamber requesting the amount sought be increased to £11000 for the conjoined case. This was notified to the Respondent by the Housing and Property.

#### The Case Management Discussion

6. A CMD was held on 7<sup>th</sup> August 2023 at 10am by teleconferencing. The Applicant was represented by Ms Gillian Matthew, trainee solicitor, Bannatyne Kirkwood France & Co. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the CMD.
7. Ms Matthew told the Tribunal that she was still seeking an order for eviction. She said that there has been no contact from the Respondent since he was written to with the PARs emails. This was contained within the papers. She said that when the Notice to Leave was served the Respondent told the letting agent that he would not be leaving at the end of the tenancy. He lives on his own. It is believed that he has children but it is understood that they do not live with him. The Property has not been adapted for any disabilities. It is not known whether the Respondent is working or not. In his emails that were in response to the PARs letters he said that he had been on Universal Credit but that he was to return to work. It is not known if he did return to work.
8. Ms Matthew said that the Respondent is now over one year in arrears. He has made indication that he would make payments but has failed to do so. She noted that this property is mortgaged and the Applicant has five other properties. She said that the Applicant has renters insurance which is currently addressing the missed payments but that it would not continue indefinitely and by making a claim on it the Applicant will have higher premiums.

#### Findings and reason for decision

9. A Private Rented Tenancy Agreement commenced 15<sup>th</sup> July 2021.
10. The Respondent persistently failed to pay his rent charge of £725 per month. The rent payments are due to be paid on 16<sup>th</sup> day of each month.
11. Arrears accrued to more than one months rent payment at the date of application and was more than three months rent payments at the date of the hearing. At the point of the Notice to Leave the Respondent had accrued more than six months rent arrears.
12. The arrears sought in the conjoined case total £11000. The Tribunal was satisfied that the Respondent was due this amount to the Applicant. This

amount is higher than the amount sought in conjoined application. This amount is solely for outstanding rent arrears.

13. There are no issues of reasonableness to prevent an order for eviction being granted.

#### Decision

14. The Tribunal found that ground 12A has been established and granted an order in favour of the Applicant.

#### **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.**

**Gabrielle Miller**

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**Legal Member/Chair**

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**7<sup>th</sup> August 2023**  
**Date**