



**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/22/1989**

**Property : 46 Kelvin Gardens, Hamilton, South Lanarkshire ML3 9NP ("Property")**

**Parties:**

**Oasis Realty Ltd, 31 Portland Street, Aberdeen AB11 6LN ("Applicant")**

**James & George Collie LLP, 1 East Craibstone Street, Aberdeen AB11 6YQ ("Applicant's Representative")**

**George Wands and Laura Fraser, 46 Kelvin Gardens, Hamilton, South Lanarkshire ML3 9NP ("Respondent")**

**Tribunal Members:**

**Joan Devine (Legal Member)  
Elizabeth Currie (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined that an order for possession of the Property should be made.**

**Background**

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Tenancy Agreement dated 15 December 2021; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 15 May 2022 ("Notice to Leave"); a rent statement for the period 15 December 2021 to 15 June 2022; royal mail proof of posting dated 14 May 2022; royal mail proof of delivery dated 17 May 2022; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 22 June 2022; letters from the Applicant's agent to the Respondents dated 19 and 27 February 2022 regarding rent arrears and sheriff officer's execution of service certifying service of the Application on the First

Respondent on 9 September 2022 and on the Second Respondent on 16 December 2022.

### **Case Management Discussion**

A case management discussion took place before the Tribunal on 21 March 2023 by teleconference. Duncan Love of the Applicant's Representative was in attendance. There was no appearance by the Respondent. Mr Love said that at least one of the Respondents continued to reside in the Property. Mr Love told the Tribunal that the rent had not been paid since December 2021 and the arrears were currently £6900. He said that as far as he was aware the Respondent had no children living with them and had no vulnerabilities. He said that the Applicant had not had contact with the Respondent for some time. He said that the factor for the Property had told the Applicant that the Respondents were waiting for an order for eviction to assist with a homelessness application.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement dated 15 December 2021 ("Tenancy Agreement").
2. The Notice to Leave was served by recorded delivery on 17 May 2022.
3. The Notice to Leave stated that an application for an eviction order would not be submitted to the Tribunal before 15 June 2022.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 22 June 2022.
5. The application had been served on the First Respondent on 9 September 2022 and the Second Respondent on 16 December 2022. Notification of the date of the case management discussion had been sent to the Respondent on 16 February and 6 March 2023.
6. At the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months

### **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act.

In terms of section 51 of the Act, the First-tier Tribunal may issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 12 which states :

"(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months."

The Tribunal considered the statement of rent arrears provided and determined that the ground for eviction had been established. In the absence of any submission by the Respondent that it would not be reasonable to grant an order for eviction, and in light of the submission made by the Applicant's Representative, the Tribunal determined that it was reasonable to issue an eviction order.

### **Decision**

The Tribunal grants an order for possession of 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.**

Joan Devine

**Joan Devine  
Legal Member**

**Date : 21 March 2023**