



**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/23/2736**

**Re: Property at 161 Lyttleton, East Kilbride, G75 9BS (“the Property”)**

**Parties:**

**Mr Mark Robertson, 10 McLaren Grove, East Kilbride, G74 4SR (“the Applicant”)**

**Miss Lara Sweeney, Mr David Masterton, 161 Lyttleton, East Kilbride, G75 9BS (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Ann Moore (Ordinary Member)**

**Decision**

**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 10<sup>th</sup> August 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 the Respondent not adhering to ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 15<sup>th</sup> November 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 10<sup>th</sup> January 2024 at 10am by teleconferencing. The letter also requested all written representations be submitted by 6<sup>th</sup> December 2023.

3. On 16<sup>th</sup> November 2023, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by leaving in the hands of her partner. This was evidenced by Certificate of Intimation dated 16<sup>th</sup> November 2023.
4. On 9<sup>th</sup> January 2024, the Applicant's representative emailed the Housing and Property Chamber with a rent statement for the period 1<sup>st</sup> September 2023 to 1<sup>st</sup> January 2024 detailing rent arrears of £4460.

#### The Case Management Discussion

5. A CMD was held 10<sup>th</sup> January 2024 at 10am by teleconferencing. The Applicant was represented by Mr Jeffery Livingstone, Landlord Specialist Services Scotland. The Respondents were present and represented themselves.
6. Mr Livingstone said that the Applicant still wished to get an order for eviction. There had been a payment plan in place but not adhered to by the Respondents. There has been no communication from the Respondents since May 2023.
7. Ms Sweeney spoke on behalf of both the Respondents. She said that they did not object to an order being granted. She has been liaising with her local housing officer but has not been offer alternative accommodation. She wishes to leave the Property as their relationship with the Applicant has broken down. She is of the opinion that the Applicant did not adhere to his responsibilities to a manner that she would have expected of a landlord, for example he did not register quickly as landlord. She no longer feels safe in the Property as the Applicant knows where she lives and she has found him to be threatening.
8. Mr Livingstone told the Tribunal that he understands that the Applicant has only one property that he rents out. He believes it to be mortgaged but does not have any confirmation of this matter. Ms Sweeney said that the Property is on the market and has been for some months. The Respondents have been letting people into the Property to view it.

#### Findings and reason for decision

9. A Private Rented Tenancy Agreement commenced 1<sup>st</sup> March 2022.
10. The Respondents persistently failed to pay their rent charge of £550 per month. The rent payments are due to be paid on first 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 CMD.
12. The Respondents do not oppose an order being granted.

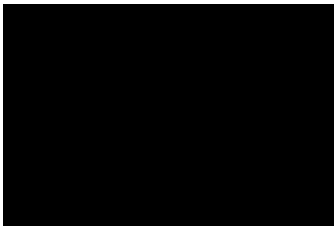
13. The arrears outstanding are currently £4660. The Tribunal was satisfied that the Respondent had been aware that a higher amount was being sought in the application. The Respondents admit the arrears.

#### Decision

14. The Tribunal found that ground 12 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.**



10 January 2024

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**Legal Member/Chair**

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**Date**