



**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/23/3487**

**Property : 8B Petendreia Court, Bonnyrigg, Midlothian EH19 2AF (“Property”)**

**Parties:**

**Lar Housing Trust, F3 Buchan House, Carnegie Campus, Enterprise Way, Dunfermline, Fife KY11 8PL (“Applicant”)**

**TC Young Solicitors, 7 West George Street, Glasgow G2 1BA (“Applicant’s Representative”)**

**Vickie Young, 8B Petendreia Court, Bonnyrigg, Midlothian EH19 2AF AND Stuart Young, 12 Machrihanish Way, Bonnyrigg EH19 3SJ (“Respondent”)**

**Tribunal Members:**

**Joan Devine (Legal Member) and Elizabeth Williams (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 Private Residential Tenancy Agreement dated 13 September 2018; Notice to Leave addressed to each Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 11 August 2023 (“Notice to Leave”) in which the ground for eviction was ground 12A; certificate of service by sheriff officer evidencing service of the Notice to Leave on each Respondent on 11 August 2023; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 29 September 2023; rent statement; rent increase notice and evidence of communications to the Respondent regarding rent arrears. The Tribunal had sight of a certificate of service by sheriff officer evidencing service of the Application on each Respondent on 30 November 2023

## **Case Management Discussion**

A CMD took place before the Tribunal on 25 January 2024 by teleconference. The Applicant was represented by Kirstie Donnelly of the Applicant's Representative. There was no appearance by either Respondent.

Ms Donnelly told the Tribunal that Mr Young had vacated the Property around 2 years ago. She said that the Applicant has been communicating with him and had told him that a private residential tenancy cannot be terminated by one joint tenant moving out. She said the most recent contact by Mr Young to the Applicant had been the previous week when he had asked the applicant to stop contacting him. Ms Donnelly told the Tribunal that Mrs Young lives in the Property with her 14 year old son. She understood that Mrs Young had been employed in a care home at the start of the tenancy but she understood she had been off work due to sickness since August 2023.

Ms Donnelly told the Tribunal that the Applicant had applied to universal credit for a direct payment and had received £325 in November and December 2023 and £122 in January 2024. She said that the Applicant had attempted to contact Mrs Young and had offered meetings but there was no meaningful contact from Mrs Young. The Tribunal asked whether the Applicant could have agreed with the Respondent to put in place a new tenancy agreement with only Mrs Young as the tenant after Mr Young left the Property. Ms Donnelly said that the Applicant's policy was to not do that whilst there are rent arrears outstanding. Ms Donnelly had no information regarding any steps that Mrs Young may have taken regarding alternative accommodation in the event an order for eviction was granted.

## **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement dated 13 September 2018 ("Tenancy Agreement").
2. The Notice to Leave was served by sheriff officer on 11 August 2023.
3. The Notice to Leave stated that an application for an eviction order would not be submitted to the Tribunal before 11 September 2023.
4. At the date of service of the Notice to Leave the cumulative amount of rent arrears equated to or exceeded an amount that is the equivalent of 6 months' rent under the Tenancy Agreement.
5. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 29 September 2023.

## **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 12A which states :

- (1) *It is an eviction ground that the tenant has substantial rent arrears.*
- (2) *The First-tier Tribunal that the ground named in paragraph 1 applies if –*
  - (a) *the tenant has accrued rent arrears under the tenancy agreement in respect of one or more periods,*
  - (b) *the cumulative amount of those rent arrears equates to, or exceeds, an amount that is the equivalent of 6 months' rent under the tenancy agreement when notice to leave is given to the tenant on this ground in accordance with section 52(3), and*
  - (c) *the tribunal is satisfied that it is reasonable to issue an eviction order*

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.**



**Legal Member**

**25 January 2024**  
**Date**