

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**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/19/2013**

**Re: Property at Flat 2, 1 Muirtown Street, Inverness, IV3 5HY (“the Property”)**

**Parties:**

**Hugh Allan Properties, Ness Castle, Dores Road, Inverness (“the Applicant”)**

**Mr Martin Christie, Flat 2, 1 Muirtown Street, Inverness, IV2 5HY (“the Respondent”)**

**Tribunal Members:**

**Helen Forbes (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent.**

**Background**

This is an application dated 30<sup>th</sup> June 2019 for an eviction order under Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”).

The Applicant seeks an eviction order in relation to the Property against the Respondent on ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”). The Applicant included a copy of the Private Residential Tenancy agreement between the parties which commenced on 21<sup>st</sup> March 2018. The monthly rent was £450. The Applicant also provided copy Notice to Leave dated 13<sup>th</sup> May 2019, as required under section 52(3) of the Act, copy notice to the local authority as required under section 56(1) of the Act and section 11(3) of the Homelessness Scotland Act 2003, Affidavit by the Applicant, and copy rent statement.

The Tribunal had before it certification that the Respondent was served with the application and notification of the Case Management Discussion by Sheriff Officers on 25<sup>th</sup> July 2019.

### **The Case Management Discussion**

A Case Management Discussion took place on 30<sup>th</sup> August 2019 at Jury's Inn, Millburn Road, Inverness. Neither party was in attendance. The Applicant was represented by Mr Martin Smith, Solicitor.

The Tribunal was satisfied that the requirements of Rule 24(1) had been complied with and notice of the Case Management Discussion given, and that it was appropriate to continue in the absence of the Respondent in terms of Rule 29.

Mr Smith moved that the order be granted. There had been no contact from the Respondent since the application was made to the Tribunal. Arrears at the time of serving the Notice to Leave were £1350. The arrears were now around £3500. The ground was met in that there was at least one month's rent arrears at the time of the Case Management Discussion and the Respondent had been in arrears for a continuous period of three or more consecutive months.

Responding to questions from the Tribunal, Mr Smith said he was not aware of whether the Respondent was in receipt of a relevant benefit. The Respondent had been in employment at the start of the tenancy and had since lost his job.

### **Findings in Fact**

1. The parties entered into a Private Residential Tenancy agreement which commenced on 21<sup>st</sup> March 2018 at a monthly rent of £450.
2. At the date of the Case Management Discussion, the Respondent was in arrears of rent by an amount greater than the amount payable as one month's rent.
3. The Respondent has been in arrears of rent for three or more consecutive months.

### **Reasons for Decision**

The Tribunal was satisfied that the required documents had been correctly and validly prepared and served in terms of the Act.

Ground 12 of schedule 3 of the 2016 Act provides that it is an eviction ground if the tenant has been in rent arrears for three or more consecutive months. The Tribunal must find that this ground applies if (1) at the beginning of the day on which the Tribunal first considers the application for an eviction order, the tenant is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day; (2) the tenant has been in arrears of rent (by any amount) for a continuous period, up to and including that day of three or

more consecutive months; and (3) the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.

The Tribunal was satisfied that ground 12 had been established. No evidence was provided to the Tribunal to show that the arrears were due to a delay or failure in the payment of a relevant benefit.

In terms of section 51(1) of the Act, the Tribunal must issue an eviction order if it finds that one of the eviction grounds named in schedule 3 applies.

### **Decision**

The Tribunal makes an order for eviction of the Respondents 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.**

Helen Forbes

\_\_\_\_\_  
**Legal Member/Chair**

*30th August 2019*  
\_\_\_\_\_  
**Date**