

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

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**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/21/1837**

**Re: Property at 236 Headland Court, Aberdeen, AB10 7GZ (“the Property”)**

**Parties:**

**Mr Max Burt, 21 Wellside Avenue, Kingswells, Aberdeen, AB15 8EF (“the Applicant”)**

**Miss Haddy Njai, 236 Headland Court, Aberdeen, AB10 7GZ (“the Respondent”)**

**Tribunal Members:**

**Gillian Buchanan (Legal Member) and Elizabeth Currie (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:-**

At the Case Management Discussion (“CMD”), which took place by telephone conference on 21 February 2022, the Applicant was in attendance. The Respondent was neither present nor represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

**Background**

A CMD had previously taken place on 11 January 2022.

At that CMD the tribunal identified that it required to resolve the issue of whether the Respondent is the Tenant or Guarantor under a Private Residential Tenancy Agreement entered into between the Applicant, the Respondent and Ms Maimuna Touray in on around February 2020 (“the PRT”).

The tribunal also required to be satisfied that the Notice to Leave had been properly served by reference to the PRT.

Further documentation was therefore sought from the parties and the tribunal issued a direction to the parties to produce the following documentation by 12 noon on 16 February 2022:-

1. The Applicant was required to provide:-

Documentary evidence vouching that the Notice to Leave issued to the Respondent in respect of the Property and dated 29 April 2021 was sent by recorded delivery post and the date thereof; and

2. The Respondent was required to provide:-

- i. The Private Residential Tenancy Agreement prepared by the Applicant and retained by the Respondent in respect of the Property and signed by the Applicant, the Respondent and Ms Maimuna Touray in or around February/March 2020; and
- ii. Documentary evidence vouching the occupant of the Property from 5 March 2020, for example a Council Tax statement, utility bill or similar.

### **Additional Documentation/Representations**

By email dated 6 February 2022 the Applicant produced to the tribunal evidence of the Notice to Leave having been issued by "Royal Mail Signed For 2<sup>nd</sup> Class" on 29 April 2022.

The Applicant also produced to the tribunal (a) copies of communications between him and the Respondent dated 13, 17 and 18 February 2020 when the Property was being advertised for rent, and (b) an amended Form F in the related civil case bearing reference FTS/HPC/CV/21/1966.

The Respondent did not produce any documentation in response to the Direction or make any further representations.

### **The CMD**

At the CMD the Applicant stated that the rent arrears had increased to £3,400.00. There had been no communications from the Respondent or Ms Touray since the last CMD on 11 January 2022 and no payments had been received to reduce the rent arrears.

The Applicant stated that the Property is still occupied. He drives passed the Property on his way to and from work and the curtains are sometimes open and sometimes closed and the lights can be seen to be switched on too.

The Applicant's personal circumstances are unchanged from those described previously. His financial affairs are challenging and he requires occupation of the Property as his own home.

### **Findings in Fact**

- The Applicant is the heritable proprietor and landlord of the Property.
- The Respondent is the tenant of the Property in terms of the PRT signed by the parties on 21 February 2020.
- Maimuna Touray is the Guarantor in terms of the PRT.
- The Applicant served on the Respondent on 29 April 2021 a valid Notice to Leave on the basis that he required to live in the Property as his only or principal home.
- The Notice to Leave was served by “Royal Mail Signed For 2<sup>nd</sup> Class” being the equivalent of recorded delivery post required by the PRT, Clause 3.
- As at the date of service of the Notice to Leave there were no rent arrears due by the Respondent.
- As at the CMD on 21 February 2022, rent arrears accrued amounted to £3,400.
- The Applicant is living in rented accommodation by himself. He has no dependents living with him. He owns no other heritable property. He split up from his partner and needs to move back to the Property to live there. He is in financial straits.
- It is reasonable in the circumstances to grant an eviction order.

### **Reasons for Decision**

Notwithstanding the Respondent’s representations at the CMD on 11 January 2022, the Respondent produced no documentation or evidence in support thereof. The tribunal therefore proceeded on the basis that the copy of the PRT as produced by the Applicant correctly reflected the arrangements between the parties and was signed by them on that basis. This was supported by the emails produced by the Applicant and dated 13, 17 and 18 February 2020.

The Applicant had issued and properly served a valid Notice to Leave which had expired. The Respondent remained in occupation of the Property.

The papers produced to the tribunal by the Applicant reflect his change in personal circumstances since the PRT was entered into. In particular his relationship had ended and this had led to the Applicant being in financial straits living in rented accommodation that was too big and therefore too expensive for him alone and with insufficient income from the lease of the Property to cover the rent due on the property occupied by him. In addition the Respondent had now ceased paying rent altogether causing him additional financial difficulties. In the circumstances the tribunal is satisfied that it is reasonable for an eviction order to be granted.

### **Decision**

The tribunal determined that an eviction order should be granted.

### **Right/**

### **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.



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Legal Member/Chair

21 February 2022  
Date