



**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/18/2196**

**Re: Property at 25J Mercer Street, Kincardine, Alloa, Clackmannanshire, FK10 4NL (“the Property”)**

**Parties:**

**Mrs Diane McMahon, 22 Broomknowe Drive, Kincardine, Alloa, Clackmannanshire, FK10 4QL (“the Applicant”)**

**Mr Duncan Stanners, 25J Mercer Street, Kincardine, Alloa, Clackmannanshire, FK10 4NL (“the Respondent”)**

**Tribunal Members:**

**Maurice O’Carroll (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for repossession should be granted**

**Background**

1. The parties entered into a lease over the Property which commenced on 26 March 2018.
2. Rent was payable at the rate of £450 per calendar month. The Respondent was in receipt of housing benefit in the amount of £349.63, rising to £361.28 by the date of the hearing. The shortfall required to be paid by the Respondent.
3. Rent was in fact in continuous arrears for a period in excess of three months dated from the commencement of the tenancy.
4. The Applicant also had reason to believe that the Respondent was keeping a pet at the Property, contrary to the terms of the lease agreement.

5. The Applicant lodged an application for eviction and possession with the Tribunal on 17 August 2018.
6. A Case Management Discussion ("CMD") was set down for 11.30 at the STEP Centre, Stirling Enterprise Park Stirling on 19 October 2018.

### **The case management discussion**

7. At the CMD, Mr Philip Bonnar of Messrs Russell + Aitken appeared on behalf of the Applicant. He was accompanied by the Applicant, Mrs Diane McMahon and her husband, Mr James McMahon. The Respondent, Mr Duncan Stanners, appeared on his own and represented himself at the CMD.
8. At the CMD, the Respondent accepted that he had been in arrears of rent for a continuous period of over three months. He denied that he had kept a pet dog at the Property. He stated that he had attempted to resolve matters regarding the rent arrears directly with the Applicant and her husband but without success.
9. Mr Bonnar confirmed that as at the date of the CMD, rent arrears had increased to a figure of £1105.99. Housing Benefit payments had been made in the sum of £361.28 (twice) and £349.63 on 1 July, 31 August and 28 September respectively. Arrears had therefore increased since the time of the application to the Tribunal. He confirmed that the Respondent had been seen walking a dog near the Property and referred to the photographs produced with the application.

### **Findings in fact**

- The parties entered into a lease on 26 March 2018 and rent was payable from that date
- The rent due under the agreement was £450 payable monthly in advance
- The Respondent has been in continuous rent arrears for a period in excess of three months by the date of the application
- Rent arrears in the sum of £1105.99 had accrued by the date of the CMD.
- The Applicant has satisfied all prior requirements necessary to obtain an Order for possession from the Tribunal.

### **Reasons for the decision**

10. The requirements of rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) (Rules of Procedure) Regulations 2017 have been complied with by the Applicant.
11. Rent due under the tenancy agreement has been admittedly unpaid for a period in excess of three months.
12. Rent arrears have continued to increase since the date of the application. In those circumstances, it is not necessary for the Tribunal to resolve the question as to whether the Respondent had also breached the tenancy agreement between the parties by keeping a pet.

## **Decision**

13. The Tribunal grants the Order for eviction and possession sought by 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.**

M O'Carroll

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**Legal Member/Chair**

19 October 2018  
**Date**