



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) Act 2016**

**Chamber Ref: EV/19/2432**

**Property:**

**19 Stoneylee Road, Cumbernauld, Glasgow G67 2LP (“the property”)**

**Parties:**

**Ms Janice Leary, c/o 93 South Bridge Street, Bathgate, West Lothian EH48 1TJ per Miss Kirstie Donnelly, Solicitor, Bannatyne Kirkwood France & Co, 16 Royal Exchange Square, Glasgow G1 3AG (“the applicant”)**

**Miss Stacey Stewart and Connor Cooley, both residing at the property (“the respondents”)**

**Tribunal Member: David Preston (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction be granted in favour of the applicant**

**Background:**

1. An application under Rule 109 of the First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”) was made on 2 August 2019. The application was based on ground 12 of Schedule 3 of the Private Housing (Tenancies) Act 2016.
2. The application was accompanied by:
  - a. Private Residential Tenancy dated 26 November 2018;
  - b. Notice to Leave dated 2 July 2019;
  - c. email Confirmation of Delivery of Notice to Leave to both respondents dated 2 July 2019;
  - d. summary rent statement for the period 30 November 2018 to 30 July 2019;
  - e. email dated 23 November from respondents confirming email communications; and

- f. Notice to the local Authority under section 11 of the Homelessness etc (Scotland) Act 2004;
3. By email dated 16 September the applicant sought to amend the application to increase the rent arrears to £2750. Recorded Delivery slip intimating the application to amend to the respondents dated 16 September 2019 was lodged at the CMD.
4. By Decision dated 15 August 2019 a Legal Member of HPC having delegated power for the purpose, referred the application under Rule 9 of the Regulations to the tribunal. A letter of Intimation with Notice of the Case Management Discussion ("CMD") to be held on 3 October 2019 at 14.00 in the Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT together with the application and case papers was served on the respondents by Sheriff Officers on 23 August 2019 conform to Certificate of Service by Sheriff Officer of that date.
5. The tribunal was satisfied that all relevant documents and intimation of today's hearing had been duly served on the respondent and that the requirements of Rule 24 had been complied with.

### **Case Management Discussion**

6. Miss Donnelly appeared on behalf of the applicant. There was no appearance by or on behalf of the respondent. The tribunal was satisfied that the respondents had been given due notice of the CMD and had voluntarily elected to waive their right to be present or be represented and was content to proceed in their absence.
7. The tribunal discussed the rent statement with the applicant's agent which demonstrated to the satisfaction of the tribunal that the rent due on 30 March 2019 was paid on 7 May 2019 and no further payments had been made resulting in arrears of 5 months up to 30 August 2019 which remained outstanding at the date of the hearing.
8. Accordingly, the tribunal was satisfied that as at the date of the CMD the respondents are in arrears of rent by an amount greater than one month's rent under the Tenancy Agreement and have been in arrears by that amount for a continuous period of more than three months.

### **Reasons for Decision**

9. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, to determine the application at the CMD.
10. As at the date of the CMD at which the tribunal considered the application for eviction, arrears of rent in excess of three months had accrued. No payments had

been made since that date, leaving arrears in excess of a sum equivalent to one month's rent in arrears for a continuous period up to the date of the CMD of three or more consecutive months.

### **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.**

David Preston

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**Legal Member/Chair**

3th October 2019

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**Date**