



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

**Chamber Ref: FTS/HPC/EV/20/0681**

**Re: Property at 16 Kirkshaws Avenue, Coatbridge, ML5 5BX (“the Property”)**

**Parties:**

**Mr Jamie McHutchison, 115 Ballochmyle Wynd, Coatbridge, ML5 4QF (“the Applicant”) represented by Ms Vikki McGuire , Jewel Homes Limited , Atrium Business Centre, North Caldeen Road, Coatbridge, ML5 4EF**

**Miss Louise Brown, 16 Kirkshaws Avenue, Coatbridge, ML5 5BX (“the Respondent”)**

**Tribunal Members:**

**Jim Bauld (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted**

**Background**

1. By application dated 10 February 2020, the applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. On 19 March 2020 the application was accepted by the tribunal and referred for determination by the tribunal.
2. A Case Management Discussion (CMD) was set to take place on 31 July 2020 and appropriate intimation of that hearing was given to both the landlord and the tenant

## **The Case Management Discussion**

3. The Case Management Discussion (CMD) took place on 31 July 2020 via telephone case conference. The applicant was represented by his letting agent, Ms Vikki McGuire, Jewel Homes Limited, Atrium Business Centre, North Caldeen Road, Coatbridge, ML5 4EF. The Respondent attended personally
4. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters
5. The tribunal asked various questions of the parties with regard to the application and the grounds for eviction contained within it.
6. The applicant's representative confirmed that she wished the order sought to be granted

## **Findings in Fact**

7. The Applicant is the registered owner of the property. He granted permission to Paul McNiven to act as landlord in a lease of the property to the respondent. and Mr McNiven and the Respondent as respectively the landlord and tenant entered into a tenancy of the property which commenced on 21 September 2019
8. The tenancy was a private residential tenancy in terms of the Act
9. The agreed monthly rental was £550
10. On 8 December 2019 the applicant served upon the tenant a Notice to Leave as required by the Act. The Notice became effective on 12 December 2019.
11. The notice informed the tenants that the landlord wished to seek recovery of possession using the provisions of the Act.
12. The notice was correctly drafted and gave appropriate periods of notice as required by law.
13. The notice set out a ground contained within schedule 3 of the Act, namely ground 12 that the tenant had been in arrears of rent for three or more consecutive months
14. Arrears had started to accrue shortly after the commencement of the tenancy and at the date of service of the Notice to Leave amounted to £1958.25.
15. At the date of the lodging of the application arrears amounted to £2749.75
16. The tenants had been continuously in arrears from November 2018 until the date of the CMD.
17. The amount of arrears exceeded one month's rent at the date of the CMD

18. The basis for the order for possession was accordingly established

### **Reasons for Decision**

19. The order for possession was sought by the landlord based on a ground specified in the Act and properly narrated in the notice served upon the tenant. The tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the landlord was entitled to seek recovery of possession based upon that ground

20. The tribunal accepted the evidence presented on behalf of the landlords with regard to the rent arrears. A rent statement was produced which set out the history of the arrears. Some rent was now being received each month via direct Universal Credit payments but these did not cover the whole rent.

21. At the CMD, the tenant freely admitted that the arrears figure shown on the statement was accurate. She admitted she had failed to make rental payments. She admitted that there was no failure or delay in the payment of any relevant benefit which had caused the arrears to accrue. She advised the tribunal that she expected to be required to leave the property when the Notice to Leave expired. She had approached the local council to seek alternative housing. She had been told by the council that they would not assist her under the homelessness legislation until an eviction order was granted. She was content for the tribunal to grant the eviction order and understood the consequences of it

22. The tribunal was satisfied that the tenant had been in arrears for a period far in excess of three consecutive months and the arrears owed were significantly in excess of one month's rent. The ground for eviction was accordingly established and the tribunal was obliged in terms of the provisions of the 2016 Act to grant the order sought. The tribunal decided to exercise the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

### **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.**

Jim Bauld

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**Legal Member/Chair**

31 July 2020

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**Date**

