

**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/21/0901**

**Re: Property at 74 Pratt Street, Kirkcaldy, Fife, KY1 1SA (“the Property”)**

**Parties:**

**Mr Vladimir Mossine, 13 Plewlandcroft, South Queensferry, EH30 9RG (“the Applicant”)**

**Miss Sarah Masson, 74 Pratt Street, Kirkcaldy, Fife, KY1 1SA (“the Respondent”)**

**Tribunal Members:**

**Nairn Young (Legal Member) and Angus Lamont (Ordinary Member)**

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

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

- Background
- 1. This is an application for an eviction order against the Respondent, who occupies the Property in terms of a private residential tenancy agreement with the Applicant. It first called for a case management discussion (‘CMD’) at 10am on 21 July 2021, by teleconference. That CMD was adjourned and a direction made for the Applicant to address the Tribunal in writing on various matters.

2. It called again at 2pm on 20 September 2021, again by teleconference. That CMD was also adjourned, to allow the Applicant a further opportunity to address matters contained in the direction made at the first CMD.
3. The application called at a final CMD on 1 November 2021 at 2pm, by teleconference. The Applicant was represented on the call by his daughter, Ms Irina McLean. The Respondent did not call in to the conference and was not represented. The commencement of the CMD was delayed by 10 minutes to allow for any technical issue, but there remained no contact from the Respondent.
4. In advance of this calling, the Applicant indicated that he no longer wished to rely on Ground 5 (Family member intends to live in property) of schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 ('the Act'), but rather Ground 12 (rent arrears). This latter ground was not specified in the notice to leave. The Applicant asked for permission to include it in the application nonetheless, in terms of s.52(5)(b) of the Act and applied to amend the application to that effect. A copy of the request and the application to amend was sent to the Respondent. She did not make any representation in relation to either.

- Findings in Fact

5. The Respondent lets the Property from the Applicant in terms of a private residential tenancy, with a start date of 28 September 2020.
6. In terms of the tenancy agreement, rent of £473 is to be paid on 15 October 2020 and on the first day of each month thereafter.
7. The Respondent has paid no rent at any time.
8. The Applicant served a notice to leave on the Respondent, which was received by her on 24 November 2020, giving the ground upon which eviction

was sought as Ground 5 (Family member intends to live in property) of schedule 3 to the Act.

9. The Applicant has tried to engage with the Respondent on many occasions, both before and after the application was made, to attempt to help her resolve the issue of her rent arrears.
  10. The Applicant has also tried to engage the Respondent via an organisation called Fife Private Rental Solutions, who attempted to provide support and advice as to how to address the arrears.
  11. The Respondent has not engaged either with the Applicant or Fife Private Rental Solutions.
  12. The Applicant's family member no longer intends to live in the Property.
  13. As at the date of the CMD, the Respondent had been in arrears of rent for 12 consecutive months.
  14. It is reasonable to grant an order for eviction of the Respondent on account of her continuing failure to pay any rent.
- Reasons for Decision
15. The Tribunal considered that it was fair to allow the Applicant to amend his application to include rent arrears as a ground for an eviction order, notwithstanding that it had not been included in the notice to leave. The Respondent had been given notice of his application to do so and had not raised any objection (or indeed made any representation at all). The issue of the rent arrears has been the subject of much discussion between the parties throughout the tenancy and the Applicant has been patient and persistent in attempting to get the Respondent to engage with that issue, whether with him directly, or via Fife Private Rental Solutions. The Respondent has refused to

do so. There would be likely to be significant prejudice to the Applicant in requiring him to go through the process of issuing a new notice to leave and raise a further application. It seems likely that the Respondent would continue not to pay any rent during that period. The Respondent has not demonstrated any ability to pay rent to date, so it is most unlikely that any further notice period would afford her the ability to rectify the situation.

16. Having made that decision, the Tribunal considered that Ground 12 was established and that the application should be granted. It was reasonable to grant an eviction order on the basis of the arrears, since there had been no rent paid at all since the commencement of the tenancy and no attempt on the part of the Respondent to address that situation.

- Decision

Eviction order granted.

### **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.**

**Nairn Young**

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**Legal Member/Chair**

**11/11/2021**

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**Date**