



**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/22/1263**

**Re: Property at 68 Beaufort Crescent, Kirkcaldy, KY2 5SH (“the Property”)**

**Parties:**

**Mr Thomas Norcross, 1 Duddingston Drive, Kirkcaldy, KY2 5JP (“the Applicant”)**

**Ms Katharine Ross Docherty, 68 Beaufort Crescent, Kirkcaldy, KY2 5SH (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Janine Green (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.**

**Background**

1. The Applicant submitted an application under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondent from the property.
2. A case management discussion (“CMD”) took place on 1 August 2022. The decision made at that CMD was recalled on 5 September 2022.
3. The Tribunal intimated the date, time and conference call details of today’s case management discussion. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair.

4. On 6 January 2023 the Tribunal received written representations from the Applicant's representative.

### **The case management discussion**

5. The case management discussion took place by conference call. The Applicant was represented by Miss Rossiter and the Respondent took part in the discussion personally. The Applicant's representative explained that the level of rent arrears has remained largely the same for many months. The rent arrears outstanding currently amount to £2,036 but when the next rental payment is due on 12 January 2023, the arrears will increase to £2,421. Rent arrears have fluctuated between these two figures but ongoing rent is being met in full from the Respondent's benefits. There has been no arrangement made to pay the arrears and the Applicant seeks an order for eviction. The Respondent explained that she does not want to live in the property and has not wanted to do so for some time; she is not opposed to the application for an eviction order. She has been in touch with the local authority and has been awarded priority points to be rehoused. Despite that, alternative accommodation has not yet been identified by the local authority. The Respondent does not dispute the level of rent arrears. She explained that arrears accrued because she incurred additional taxi costs as a result of her wish to be away from the property. The Respondent does not have any proposals to pay the rent arrears. She advised that the storage heater in the living room was damaged and not operational. The damage was caused by a guest of the Respondent. The Applicant replaced that storage heater at his own cost.

### **Findings in Fact**

6. The parties entered into a private residential tenancy which commenced 12 November 2019.
7. The Applicant's representative served the Notice to Leave on the Respondent by email on 21 October 2021.
8. The Respondent has been in arrears of rent for a continuous period of more than 3 consecutive months.

### **Reason for Decision**

9. The Tribunal proceeded on the basis of the written documents which were before it and the information provided at the CMD. The Applicant's representative invited the Tribunal to make the Order sought. The Applicant relied upon Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. The Respondent has been continuously in arrears of rent throughout the tenancy. The Respondent did not dispute the level of rent arrears and did not oppose the application for eviction. The Respondent did not

have any proposals to pay the rent arrears. She no longer wishes to live in the property. The Tribunal was satisfied that it was reasonable to grant the order evicting the Respondent from the property. The Tribunal superceded extract of the order for eviction to 3 March 2023 to allow the Respondent a little more time to identify alternative accommodation.

### **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.**

Nicola Irvine

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**Legal Member/Chair**

**10 January 2023**  
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**Date**