



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 (1) of the Private Housing (Tenancies) Scotland Act (2016) (“The Act”)**

**Chamber Ref: FTS/HPC/EV/22/2073**

**Re: Property at 2 Flat 7 Drybrough Crescent, Edinburgh, EH16 4FB (“the Property”)**

**Parties:**

**Mr Graham Gibb, Dorothy Anne Kellas, Newbyth Steading, East Linton, East Lothian, EH40 3DU (“the Applicant”)**

**Miss Tyla Laidlaw, 2 Flat 7 Drybrough Crescent, Edinburgh, EH16 4FB (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Gerard Darroch (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made an Eviction Order.**

**Background**

The Applicant seeks an Eviction Order under ground 12 of Schedule 3 of the Act. The Application is accompanied by a copy of the tenancy agreement, the notice to leave issued and proof of it having been served, rent statements, evidence of compliance with The Rent Arrear Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 and s11 of the Homelessness (etc) (Scotland) Act 2003.

There had been a previous Case Management Discussion which took place on 28 February 2023. It had been continued for further information to be produced by the

Applicant. The Applicant had produced an updated rent statement and further correspondence between the parties.

### **The Case Management Discussion**

The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 3 May 2023. The Applicant was represented by Ms Lloyd of ESPC Lettings as before at the previous CMD. There was no appearance by or on behalf of the Respondent. The Application and information about how to join the conference call had previously been competently served on the Respondent by Sheriff Officers and the Tribunal had decided to proceed in the absence of the Respondent. Similarly, the Respondent received intimation of today's continued CMD by post. Once again, the Tribunal decided to proceed in the absence of the Respondent.

Having heard from Ms Lloyd and having considered the Application and the subsequent information supplied, the Tribunal made the following findings in fact.

### **Findings in Fact**

- I. *The parties entered into a tenancy agreement whereby the Applicants let the Property to the Respondent by virtue of a Private Residential Tenancy that commenced on 30 April 2021;*
- II. *The contractual monthly rent was £650.00;*
- III. *The Respondent fell into rent arrears;*
- IV. *On 4 April 2023 the Applicants competently served a Notice to Leave on the Respondent under ground 12 of Schedule 3 of the Act. At that date the ground was established as the Respondent was in arrears of rent of a sum equal to at least one month's rent and had been so in arrears for at least three months;*
- V. *The Applicant has complied adequately with The Rent Arrear Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 and s11 of the Homelessness (etc) (Scotland) Act 2003. The letters sent to the Respondent as required by the aforesaid Regulations post-dated the raising of the Application, however, adequate time had since elapsed and sufficient subsequent contact had been made by the landlord's agent with the Respondent to enable her to explore avenues to address the matter of the rent account being persistently in arrears.*
- VI. *Ground 12 remains established and the Respondent is currently in arrears in the sum of £1,606.67;*

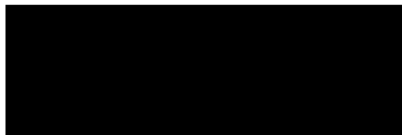
## **Decision**

The Tribunal considered whether it was reasonable to grant the Order sought as the level of arrears was comparatively moderate, being circa two and half times the value of the monthly rent of £650.00. As the Respondent had not engaged to any degree with the process, very limited knowledge was available regarding her circumstances. The Applicant's representative advised that this was the Applicant's only let property which constituted a significant element of their income stream, and that the continuing unpredictability of the rent payment pattern caused financial uncertainty for the Applicants who had been trying for almost two years to encourage the Respondent to regularise payments to the rent account. In the absence of any submissions from the Respondent, it was concluded that it would not be unreasonable to grant the Order and that it in fact was reasonable to grant the Application.

Having made the above findings in fact, the Tribunal granted the Application and made an Eviction Order.

## **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.**



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**Legal Member**

**3 May 2023**

**Date**