



**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/23/0297**

**Re: Property at 20 The Sycamores, Countess Crescent, Dunbar, EH42 1AF (“the Property”)**

**Parties:**

**Mr Andrew William Aitken, Scotsraig, Braehead Road, East Linton, EH40 3DH (“the Applicant”)**

**Ms Susan Hanratty, 20 The Sycamores, Countess Crescent, Dunbar, EH42 1AF (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member) and Elizabeth Williams (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.**

**Background**

By application, dated 27 January 2023, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”). The Ground relied on was Ground 12A of Schedule 3 to the Act, namely that the Respondent has substantial rent arrears.

The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 17 July 2021 at a monthly rent of £800, a Notice to Leave, dated 22 December 2022, confirming the rent arrears as £5,600, advising of the Ground on which the Applicant was seeking an Eviction Order and that an application to the Tribunal for the Order would not be made before 22 January 2023, with evidence of service of the Notice by sheriff officers on 22 December 2022, a Rent Statement showing arrears as at 17 January 2023 of £6,400 and a letter dated 23 December 2022, from TC Young LLP, Glasgow, to the

Respondent, in terms of the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.

On 4 April 2023, the Tribunal advised the Parties of the date and time of a Case Management Discussion and the Respondent was invited to make written representations by 25 April 2023. The Respondent did not make any written representations to the Tribunal.

On 19 April 2023, the Applicant's representatives provided an updated Rent Statement showing arrears as at 17 April 2023 of £8,800.

### **Case Management Discussion**

A Case Management Discussion was held by means of a telephone conference call on the morning of 11 May 2023. The Applicant was represented by Ms Kirstie Donnelley of TC Young LLP, solicitors, Glasgow. The Respondent was not present or represented.

The Applicant's representative told the Tribunal that no rent had been paid since the latest Rent Statement provided on 19 April 2023. She explained that, over the last year, the Applicant and his letting agents had been making more or less weekly attempts to contact the Respondent by email and text, but the Respondent had failed completely during that period to engage with them to discuss the rent arrears. Ms Donnelly asked the Tribunal to accept that the Applicant and his letting agents had taken all reasonable steps to engage with the Respondent and that it was reasonable to issue an Eviction Order due to the substantial rent arrears and the failure of the Respondent to engage.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the Eviction Grounds named in Schedule 3 applies.

Ground 12A of Schedule 3 to the Act states that it is an Eviction Ground that the tenant is in substantial rent arrears and that the Tribunal may find that Ground 12A applies if the tenant has accrued rent arrears under the tenancy in respect of one or more periods, the cumulative amount of those rent arrears equates to, or exceeds, an amount that is the equivalent of 6 months' rent under the tenancy when Notice to Leave is given to the tenant on this ground in accordance with section 52(3) of the Act and the Tribunal is satisfied that it is reasonable to issue an Eviction Order. In deciding whether it is reasonable to issue an Eviction Order, the Tribunal is to consider whether the tenant's being in arrears of rent over the period or periods in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and the

extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers and continued in force by Section 49 of the Coronavirus (Recovery and Reform)(Scotland) Act 2022.

The Tribunal was satisfied that the rent was more than 6 months in arrears at the date of service of the Notice to Leave, that the Applicant had complied with The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020, and that no evidence had been presented by the Respondent to indicate that the arrears of rent were wholly or partly a consequence of a delay or failure in payment of a relevant benefit. The Tribunal noted that the Respondent had paid no rent at all since May 2022 and that she has not responded to many requests by the Applicant's letting agents to engage with her in relation to the arrears.

Having considered carefully all the evidence before it, the Tribunal decided that it would be reasonable to issue an Eviction Order.

The Tribunal's Decision was unanimous.

### **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/Chair**

**11 May 2023**  
**Date**