

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (Act)**

**Chamber Ref: FTS/HPC/EV/18/1748**

**Re: Property at 1 Pirniefield Bank, Leith, Edinburgh, EH6 7QQ ("the Property")**

**Parties:**

**Ms Geraldine Smith, 3/1 80 Bankhall Street, Govanhill, G42 8SP ("the Applicant")**

**Ms Emma Smith, 1 Pirniefield Bank, Leith, Edinburgh, EH6 7QQ ("the Respondent")**

**Tribunal Members:**

**Alan Strain (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the order for eviction and recovery of possession be granted.**

**Background**

This is an Application for eviction and recovery of possession on a number of grounds in terms of section 51(1) of the Act which includes the ground that the Respondent has been continuously in arrears of rent for 3 or more months.

The following documents were lodged with the Application:

- (i) Notice to Leave dated 4 June 2018;
- (ii) Tenancy Agreement dated 8 January 2018;
- (iii) Written Statement of Grounds; and
- (iv) Section 11 Notice.

The Tribunal fixed a Case Management Discussion (**CMD**) for 10 September 2018. The parties were notified by the Tribunal of the date of the CMD and the fact that the

**Alan Strain**

Tribunal could determine the matter in absence if satisfied that it had sufficient information to do so and that it was fair to do so. The respondent received service of the notification from the Tribunal by Sheriff Officer on 10 August 2018.

### **CMD and Reasons for Decision**

At the CMD the Applicant appeared in person with an up to date schedule of rent arrears. This confirmed that the total rent arrears as at the date of the CMD were £3,022.93. It also confirmed that the Respondent had been in arrears every month from March 2018. Whilst some Housing Benefit had been paid it was not being paid in respect of the initial period of the tenancy and in any event did not cover the full rental payment due each month.

The Tribunal was satisfied that it had sufficient information upon which to make a decision and that it was fair to do so having regard to the overriding objective. The Tribunal found that the Respondent had been in rental arrears for 7 consecutive months, was currently in rental arrears for in excess of 3 months rent and that the arrears were not due to delay or failure in the payment of relevant benefit.

The Tribunal accordingly granted the order for eviction and recovery of possession. In light of the order made the Tribunal did not consider it necessary to deal with the other grounds stated in the Application.

### **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.

# Alan Strain

Legal Member/Chair

Date

10 September 2018

\*Insert or Delete as required