



**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/23/2676**

**Re: Property at 10/1 West Pilton Grove, Edinburgh, EH4 4BY (“the Property”)**

**Parties:**

**Mr Brendan John Benahy, 39/8 Albion Road, Edinburgh, EH7 5QP (“the Applicant”)**

**Ms Nicole Rafiq, 10/1 West Pilton Grove, Edinburgh, EH4 4BY (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Eileen Shand (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.**

**Background**

1. An application was received by the Housing and Property Chamber dated 8<sup>th</sup> August 2023. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 12A of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 3<sup>rd</sup> October 2023 all parties were written to with the date for the Case Management Discussion (“CMD”) of 9<sup>th</sup> November 2023 at 10am by teleconferencing. The letter also requested all written representations be submitted by 24<sup>th</sup> October 2023.

3. On 4<sup>th</sup> October 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent. This was left in the hands of the Respondent's partner, Junior Aljas. This was evidenced by Certificate of Intimation dated 4<sup>th</sup> October 2023.
4. On 23<sup>rd</sup> October 2023, the Applicant's representative emailed the Housing and Property Chamber asking that the application be amended to £11355. This attached a rent account for the period 26<sup>th</sup> July 2022 to 26<sup>th</sup> September 2023.
5. This case is conjoined with FTS/HPC/CV/23/2677

### The Case Management Discussion

6. A CMD was held 9<sup>th</sup> November 2023 at 10am by teleconferencing. The Applicant was represented by Nicola Brechany, Trainee Solicitor, TC Young Solicitors. The Respondent was not present. The Tribunal waited until 10.05am before starting to allow the Respondent to join the call. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make representations in advance of the CMD.
7. Ms Brachany said that the arrears have now risen to £12105 as of the date of this CMD. The Respondent last responded to emails in July 2022. This is noted as the preferred way of corresponding in terms of the lease. The lease was a conversion from a Short Assured Tenancy at the Respondent's request. There is no known Universal Credit Housing element entitlement. There has only been one payment to the rent account which was in the first month of the tenancy and was for less than the rent charge. There have been no offers of payment. The Applicant spoke to the Respondent in October 2023. The Respondent did not address the arrears when they spoke. At the start of the tenancy the Respondent was working part time in a supermarket. She lives in the Property with her three children between 4 or 5 years old to 12 or 13 years old. The Property has not been adapted for any disabilities.
8. Ms Brachany said that the Applicant has a mortgage of £700 per month on the Property. The Respondent not paying is putting the Applicant under financial pressure. He now intends to sell the Property once the Respondent leaves the Property.
9. The Tribunal was satisfied that ground 12A had been met and that all the paperwork submitted was in order. There were no issues of reasonableness to prevent an order for eviction being granted.

### Findings and reason for decision

10. A Private Residential Tenancy Agreement commenced 1<sup>st</sup> July 2022.
11. The Respondent persistently failed to pay her rent charge of £750 per month. The rent payments are due to be paid on 26<sup>th</sup> day of each month.

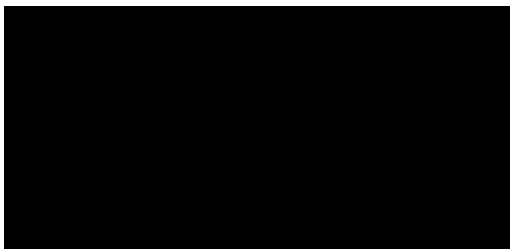
12. The Respondent has not made any payments since July 2022 when the tenancy started. The Respondent has not made any payment offers.
13. There are no known outstanding Universal Credit Housing Element issues.
14. The arrears are currently £12105.
15. There are no issues of reasonableness to prevent an order for eviction being granted.

#### Decision

16. The Tribunal found that ground 12A has been established and granted an order in favour of the Applicant.

#### **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.**



**Legal Member/Chair**

**9<sup>th</sup> November 2023**

**Date**