



**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/23/2598**

**Property: 60/6 Moira Terrace, Edinburgh EH7 6RY (“Property”)**

**Parties:**

**Rebecca Helps, 25 Meadow Lane, Little Houghton, Northamptonshire NN7 1AH (“Applicant”)**

**Daryl Mills, 60/6 Moira Terrace, Edinburgh EH7 6RY (“Respondent”)**

**Tribunal Members:**

**Joan Devine (Legal Member)  
Ahsan Khan (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined that an order for possession of the Property should be made.**

**Background**

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Private Residential Tenancy Agreement dated 1 March 2023; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 18 May 2023 ("Notice to Leave"); copy email dated 18 May 2023 attaching the Notice to Leave; rent statement and notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 19 April 2023. The Tribunal had sight of a sheriff officer's execution of service certifying service of the Application on the Respondent on 3 November 2023.

On 20 November 2023 the Applicant lodged an updated statement of rent arrears as at 1 November 2023 showing arrears of £6250 and photographs of the interior of the Property as at 4 April 2023 and 22 September 2023. On 14 December 2023 the

Applicant lodged an undated tenancy agreement between the Parties which commenced on 22 May 2020.

### **Case Management Discussion (“CMD”)**

A CMD took place before the Tribunal on 15 December 2023 by teleconference. The Applicant was in attendance. There was no appearance by the Respondent.

The Applicant told the Tribunal that the Respondent had taken entry to the Property in May 2020 but a new tenancy agreement had been put in place when a new agent called Kilgour took on the management of the Property. She said that the rent arrears started to build up from February 2023 although the rent had been paid late in the period before that. The Tribunal asked the Applicant about compliance with the pre-action requirements. She said that she sent emails and text messages to the Respondent. She said she also called him. She said the agents sent letters by recorded delivery post to the Respondent. She said the letters contained signposting to organisations who could assist the Respondent. She said that the agent helped the Respondent complete an application for universal credit and told him about applying for social housing. She said there was very little communication back from the Respondent. She said she had last heard from the Respondent in September 2023.

The Applicant told the Tribunal that the Respondent lives in the Property alone. She understood that he works in his father’s roofing business. She said that when the Respondent started to struggle for money he told her he was working less shifts.

The Tribunal asked about the damage to the Property and the photographs lodged. The Applicant said that an inspection was carried out in April 2023 when the hole in the kitchen wall was noted as was the curtain having been ripped off the rail in the living room. She said there was also wear and tear to the carpets and mould in the bathroom which was not being properly maintained. She said that a further inspection was carried out in September 2023 when damage to the kitchen counter was noted as was a burn on the carpet.

The Applicant told the Tribunal that she does not own any other rental properties and that she was suffering a significant amount of stress in respect of the arrears at the Property.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement which commenced on 22 May 2020.

2. The Applicant and the Respondent had entered into a Tenancy Agreement dated 1 March 2023.
3. The Notice to Leave was served by email on 18 May 2023.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 19 April 2023.
5. At the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months.

### **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51 of the Act, the First-tier Tribunal may 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. In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 11 (tenant has failed to comply with an obligation under the tenancy) and 12 (tenant has been in rent arrears for three or more consecutive months).

The Tribunal considered the photographs lodged and the statement of rent arrears provided and determined that ground 12 had been established. At the date of service of the Notice to Leave the rent was outstanding for the period February to May 2023. The sum due was £2500. In the absence of any submission by the Respondent that it would not be reasonable to grant an order for eviction, the Tribunal determined that it was reasonable to issue an eviction order.

### **Decision**

The Tribunal grants an order for possession of the Property.

### **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.**



**Joan Devine  
Legal Member**

**Date: 15 December 2023**