



**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/23/3030**

**Re: Property at 30 Miller Road, Inverness, IV2 3EN (“the Property”)**

**Parties:**

**CLC Highland LTD, Windygoul, Mossfield, Invergordon, IV18 0LG (“the Applicant”)**

**Mr Liam Robertson, 30 Miller Road, Inverness, IV2 3EN (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member) and Frances Wood (Ordinary Member)**

**Decision**

**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**

1. By application, received by the Tribunal on 27 August 2023, the Applicant sought an Eviction Order under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 12 of Schedule 3 to the 2016 Act, namely that the Respondents were in arrears of rent over three consecutive months.
2. The application was accompanied by a copy of a Private Rented Tenancy Agreement between the Parties commencing on 6 October 2022 at a monthly rent of £560, and a Notice to Leave, dated 18 July 2023, advising the Respondent that the Applicants were seeking an Eviction Order under Ground 12 of Schedule 3 to the 2016 Act and that an application to the Tribunal would not be made before 15 August 2023, together with a Rent Statement showing arrears as at 6 September 2023 of £2,810. The Applicant later provided the Tribunal with an updated Rent Statement showing that as at

6 December 2023, the arrears were £4160. £180 had been paid on 20 November, £150 on 16 October and £110 on 17 August, all 2023.

3. On 3 November 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 24 November 2023. The Respondent did not make any written representations to the Tribunal.

### **Case Management Discussion**

4. A Case Management Discussion was held by means of a telephone conference call on the morning of 13 December 2023. The Applicant was represented by Mr Conneach Laing. The Respondent was also present.
5. The Respondent told the Tribunal that he lives alone in the Property and has no serious health issues or vulnerabilities. He had lost his job in late January/early February 2023 and had been in receipt of Universal Credit until he began a full-time course of study at the University of the Highlands & Islands in September. He was now giving up his studies and looking for full-time employment and had applied for his universal Credit to be reinstated. It had been at a level of approximately £600-£650 per month, inclusive of the housing element. He recognised that his current financial position meant that he was unable to pay the full monthly rent. He proposed to live with friends or family.
6. The Applicant told the Tribunal that it was clear that the Respondent did not have the money to pay the current rent, let alone tackle the arrears, so the position was only going to deteriorate.

### **Reasons for Decision**

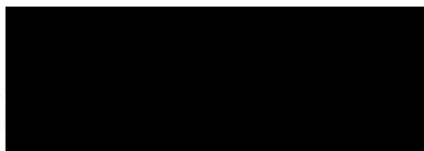
7. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to enable it to decide the application without a Hearing and that it appeared that the Parties had provided all the information and documentation they wished the Tribunal to consider in arriving at its Decision.
8. 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.
9. Ground 12 of Schedule 3 to the Act states that it is an Eviction Ground that the tenant has been in rent arrears for three or more consecutive months and that the Tribunal may find that Ground 12 applies if, at the beginning of the day on which the Tribunal first considers the application for an Eviction Order on its merits, the tenant is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, that the

Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and the Tribunal is satisfied that it is reasonable on account of that fact to issue an Eviction Order.

10. The Tribunal was satisfied that the Respondent has been in rent arrears for three or more consecutive months and that the current arrears exceed one month's rent. No evidence had been presented to indicate that the Respondent's being in arrears might be wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. Accordingly, the only matter for the Tribunal to determine was whether it was reasonable to issue an Eviction Order.
11. The Tribunal noted that the Respondent accepted that he had very substantial arrears and that he could not afford the monthly rent and was not in a position to repay the arrears. The view of the Tribunal was that the arrears are very substantial, and that it is very likely they will continue to increase, at least until the Respondent gains employment.
12. Having considered carefully the evidence, written and oral, before it, the Tribunal decided that the requirements of Ground 12 had been met and that it was reasonable on account of that fact to issue an Eviction Order.
13. The provisions of the Cost of Living (Tenant Protection) (Scotland) Act 2022 apply in this case. The arrears amount to approximately 7 months, but the Tribunal noted that the Applicant had not, in advance of the Case Management Discussion, sought to amend his application to include Ground 12 A.

## **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**

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**Date: 13 December 2023**

