



**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/23/3553**

**Re: Property at 23 Pitreuchie Place, Forfar, DD8 2DG (“the Property”)**

**Parties:**

**Mrs Wendy Stewart, 1 Graham Street, Montrose, Angus, DD10 8SR (“the Applicant”)**

**Mr Aaron John Brown, 23 Pitreuchie Place, Forfar, DD8 2DG (“the Respondent”)**

**Tribunal Members:**

**Richard Mill (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 an eviction order be granted against the respondent**

Introduction

This application seeks an eviction order and is under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016.

Intimation of the application and of the initial Case Management Discussion (CMD) in both applications were effected upon the respondent by Sheriff Officers on 19 December 2023.

The CMD took place by teleconference on 8 February 2023 at 2.00 pm. The applicant was represented by Amanda Wiewiorka of Wardhaugh Property. The respondent failed to participate in the hearing.

## Findings and Reasons

The property is 23 Pitreuchie Place, Forfar DD8 2DG. The applicant is Mrs Wendy Stewart who jointly owns the property with her husband, Mr Brian Stewart, who consents to the bringing of these proceedings who are the heritable proprietors and registered landlords. The respondent is Mr Aaron Brown who is the tenant.

The parties entered into a private residential tenancy which commenced on 27 February 2023. The agreed rent in terms of the written lease was £450 per month. This followed a former tenancy operating in which the respondent and his ex-partner were joint tenants from 2020. The respondent had moved out after separation in 2022 and the tenancy had continued then in the name of his ex-partner only. After being approved as a tenant of the property he acquired keys direct from his ex-partner and did not make payment of the initial rent. He has only made one payment in the sum of £600 which was in August 2023. As of the date of the hearing the total rent outstanding has risen to £4,512.74.

The eviction proceedings are based upon arrears of rent and the ground relied upon is ground 12, contained within Part 1, Schedule 3 to the 2016 Act, namely that the respondent is in rent arrears over three consecutive months.

The tribunal found that the notice to leave upon which the eviction application proceeds is valid. It is dated 6 June 2023. 28 days' notice required to be given. The notice served states an application will not be submitted to the tribunal for an eviction before 6 July 2023. The notice was served by email on the respondent on 6 June 2023 which is evidenced. Sufficient notice was given.

The tribunal was satisfied that more than three consecutive months of rent remains unpaid by the respondent. This establishes ground 12. The tribunal proceeded to consider the issue of reasonableness.

The respondent resides alone. He has no known disabilities or other vulnerabilities. He has failed to communicate and cooperate at all. He has also failed to cooperate with compliance checks.

There is evidence that the local authority has been advised of the eviction proceedings with a relevant section 11 notice having been issued.

The rent arrears pre-action requirements have been complied with by numerous emails having been issued to the respondent by the applicant's representative providing all the required information.

The applicant has evidenced to have fully supported and guided the respondent regarding the arrears of rent.

It is not reasonable that the applicant continue to make the property available for the respondent who is not making payment of rent. This is adversely affecting her

financially. The tribunal attached significant weight on the existing high level of rent arrears.

In all of the circumstances the tribunal determined that it was reasonable to grant the eviction order sought by 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.**



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**Legal Member/Chair**

**9 February 2024**

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**Date**