



**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/23/1263**

**Property : 12 Coyle Drive, Gartcosh G69 8FF ("Property")**

**Parties:**

**Adeola Adeleke, 15 Clugston Court, Kirkintilloch G66 1FA ("Applicant")**

**1-2-Let (Lettings and Sales ) Ltd, 104 Bellgrove Street, Glasgow G31 1AA ("Applicant's Representative")**

**Adam Mills, 12 Coyle Drive, Gartcosh G69 8FF ("Respondent")**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Mary Lyden (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.**

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E on 18 April 2023. The documents produced were: a Private Tenancy Agreement dated 18 July 2022; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 17 November 2022 ("Notice to Leave"); A copy of an email from the Applicant to the Respondent attaching a copy of the Notice to Leave which stated that the Notice to Leave had been delivered by hand on 17 November 2022; a second Notice to Leave dated 31 March 2023 ("Second Notice to Leave"); email from the Applicant's Representative to the Respondent dated 31 March 2023 attaching the second 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 18 April 2023 and copy emails from Applicant's Representative to the Respondent regarding rent arrears dated between 4 April and 19 July 2023. The Tribunal had sight of a sheriff officer's execution of service certifying service of the Application on the Respondent on 10 November 2023. A Case

Management Discussion (“CMD”) fixed for 20 December 2023 was postponed. The Respondent was advised by letter dated 3 January 2024 that a CMD would take place on 19 February 2024.

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

A CMD took place before the Tribunal on 19 February 2024 by teleconference. Paris Rekhy of the Applicant’s Representative was in attendance. There was no appearance by the Respondent. Ms Rekhy stepped in at the last minute due to the absence of her colleague who had been dealing with the matter. Ms Rekhy told the Tribunal that the Respondent had left the Property and returned the keys to the Applicant. She told the Tribunal that an order for payment of arrears had been granted in July 2023 and no payment had been made by the Respondent. She understood that the Respondent had lived in the Property with 3 children. She had no information regarding where the Respondent was now living. She understood he was in employment when he took up the tenancy but she thought he was no longer working. Ms Rekhy could provide no information regarding the Applicant’s intention to live in 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 dated 18 July 202.
2. The Notice to Leave was served by hand delivery on 17 November 2023.
3. At the date of service of the Notice to Leave the Respondent had been in occupation of the Property for less than 6 months.
4. A second Notice to Leave was served by email on 31 March 2023.
5. In terms of clause 33 of the Tenancy Agreement the Applicant and the Respondent had agreed that notices could be served by hand delivery or email.
6. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 18 April 2023.
7. 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 notice to Leave the Applicant stated that they sought recovery of possession of the Property on the basis set out in grounds 4A (landlord intends to live in the let property to alleviate financial hardship), 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). In the second Notice to Leave the Applicant stated that they sought recovery of possession of the Property on the basis set out in ground 12.

The Tribunal considered 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 17 September to 17 November 2022. The sum due was £4350. At the date of service of the second Notice to Leave the rent was outstanding for the period 17 September to 17 March 2023. The sum due was £10150. 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.**

J. Devine

**Joan Devine  
Legal Member**

**Date: 19 February 2024**