



**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/23/2388**

**Property: 1 McPherson House, Mortimers Lane, Inverurie AB51 4PF (“Property”)**

**Parties:**

**Colin Wood, Gardeners Cottage, Nursery Lane, Inverurie AB51 3XP (“Applicant”)**

**Ahmad Al Khaled, 1 McPherson House, Mortimers Lane, Inverurie AB51 4PF (“Respondent”)**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Gerard Darroch (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. The documents produced were: a Private Tenancy Agreement dated 24 December 2021; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 16 June 2023 ("Notice to Leave"); a copy of an email from the Applicant to the Respondent attaching the Notice to Leave dated 16 June 2023; 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 16 June 2023. The Tribunal had sight of a sheriff officer's execution of service certifying service of the Application on the Respondent on 18 January 2024.

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

A CMD took place before the Tribunal on 7 March 2024 by teleconference. The Applicant and the Respondent were both in attendance. The Respondent told the Tribunal that he had been looking for alternative accommodation but could not find anything affordable in the private rented sector. He said he was on the housing list with Aberdeenshire Council and with providers of social housing. He said the Council had told him that the existence of an eviction order would help his application to progress. He said that he lived in the Property alone and that he had been employed in sales since December 2023.

The Applicant told the Tribunal that the Respondent had been entitled to universal credit when he was a student but since he ceased to be a student he was no longer entitled to universal credit. He said that the arrears are now £3000.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement dated 24 December 2021.
2. The Notice to Leave was served by email on 16 June 2023.
3. At the date of service of the Notice to Leave and the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 16 June 2023.

### **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 ground 12 which is that the tenant has been in rent arrears for three or more consecutive months.

The Tribunal considered the statement of rent arrears provided and determined that ground 12 had been established. Having considered all of the circumstances, and in light of the Respondent essentially not opposing the application, 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 : 7 March 2024**