



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016**

Reference number: FTS/HPC/EV/23/3562

Order granted on 14 May 2024 in absence of the Respondent.

**Re: Property at 121 Harvie Avenue, Newton Mearns, Glasgow, G77 6LJ (“the Property”)**

**Parties:**

**Mrs Shaheda Ashraf, residing at 23 Paidmyre Road, Newton Mearns, Glasgow, G77 5AJ (“the Applicant”)**

**Mr David Kennedy, residing at 121 Harvie Avenue, Newton Mearns, Glasgow, G77 6LJ (“the Respondent”)**

**Tribunal Members:**

**Paul Doyle (Legal Member)  
Gerard Darroch (Ordinary member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 12 of schedule 3 to the 2016 Act.**

**Background**

The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicant had lodged with the Tribunal Form E dated 02/10/2023. The documents produced were a Tenancy Agreement; a notice to leave served on 09/05/2023, a Notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 and a schedule of unpaid

rental. A copy title sheet was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

### **Case Management Discussion**

A case management discussion took place by telephone conference at 10.00am on 14 May 2024. The Applicant was represented by Mr A Arr, of Rivercity Properties. The respondent was neither present nor represented. The case file discloses that the respondent has had timeous intimation of the date, time, and method of joining the hearing. No application is made for an adjournment. We can justly determine this case in absence of the respondent.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Private Residential Tenancy Agreement for the Property on 9/01/2021.
2. The rent in terms of the Tenancy Agreement was £1,050.00.
3. No payments of rent have been made since February 2023. At the date the application was received, there were arrears of rental totalling £9,450.00, which is nine months rental. At today's date there are arrears of rental totalling £16,800, which is 16 months rental.
4. Notice of the date of this hearing was served on the Respondent timeously.
5. On 09/05/2023 the applicant served notices to leave on the respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 17/10/2023, the applicant submitted this application to the tribunal.
6. The Applicant seeks recovery of possession of the Property in terms of Ground 12 of schedule 3 to the 2016 Act. The rental was 9 months in arrears at the date the application was submitted. Rental is now 16 months in arrears.
7. The respondent does not offer any resistance to this application.
8. There is no suggestion that the respondent is in arrears of rent either wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. It is not argued that it is unreasonable to grant an order for repossession of the property. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

## **Reasons for the Decision**

1. The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Schedule 3 (12) to the 2016 Act provides that it is an eviction ground that the tenant has substantial rent arrears where the cumulative amount of the arrears equates to, or exceeds, an amount equivalent to for three months' rent.
3. The basis for possession set out in in terms of Ground 12 of schedule 3 to the 2016 Act is established. The respondent does not offer any defence to the application.

## **Decision**

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Grounds 12 of schedule 3 to the 2016 Act.

## **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.**

**Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

*Paul Doyle*  
Legal Member

14 May 2024