



**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**

**Chamber Ref: FTS/HPC/EV/24/0358**

**Re: Property at Flat 16, 6 Dauline Road, South Queensferry, EH30 9BP (“the Property”)**

**Parties:**

**Capita Trust Company Ltd As Trustee For Housing Fund Scotland, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)**

**Mr Jamie Dall, Flat 16, 6 Dauline Road, South Queensferry, EH30 9BP (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member) and Gerard Darroch (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property.**

**Background**

1. By application dated 22 January 2024 the Applicant’s representatives, Patten & Prentice LLP, Solicitors applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant’s representatives submitted a copy of a tenancy agreement, Notice to Leave, Section 11 Notice, Pre-action requirement email and, a rent statement together with other documents in support of the application.
2. By Notice of Acceptance dated 21 February 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 8 May 2024.
4. By email dated 12 June 2024 the Applicant's representative submitted an updated rent statement to the Tribunal.

### **The Case Management Discussion**

5. A CMD was held by teleconference on 13 June 2024. The Applicant was represented by Mr Kenneth Caldwell from the Applicant's representatives. The Respondent did not attend nor was he represented. The Tribunal being satisfied that proper intimation of the CMD had been given to the Respondent determined to proceed in his absence.
6. The Tribunal noted that the Respondent had commenced his tenancy of the property on 20 August 2020 and that following rent arrears accruing since May 2023 the Applicant had instructed service of a Notice to Leave on the Respondent on 7 November 2023 under Ground 12 of Schedule 3 of the 2016 Act. The Tribunal noted that at that time the rent arrears amounted to £3621.91. The Tribunal also noted that at the date of the CMD the Respondent was due rent of £8883.59.
7. The Tribunal noted that Pre-action emails had been sent to the Respondent on 17 October 2023 and 15 January 2024 and a Section 11 Notice had been sent to Edinburgh City Council on 15 January 2024.
8. Mr Caldwell advised the Tribunal that the Respondent was aged 42 and believed to be employed as an HGV driver earning about £2000.00 per month. The Tribunal was advised that the Respondent lived in the property alone. Mr Caldwell explained that a previous application for eviction had been withdrawn after the Respondent's father had cleared the arrears but that had not happened on this occasion. Mr Caldwell said there was no indication that the Respondent was in receipt of state benefits and that numerous attempts by the Applicant's letting agents to engage with the Respondent had been unsuccessful.
9. Mr Caldwell submitted that given the level of arrears and the failure of the Respondent to engage with the Applicant's letting agents or to participate in the proceedings it was reasonable to grant the order sought.

### **Findings in Fact**

10. The Respondent commenced a Private Residential Tenancy of the property on 20 August 2020.
11. A Notice to Leave under Ground 12 of Schedule 3 of the 2016 Act was served on the Respondent on 7 November 2023.

12. At that time the Respondent had been in arrears of rent for a period of more than three months and owed rent of £3621.91.
13. Pre-action requirement emails were sent to the Respondent on 17 October 2023 and 15 January 2024.
14. A Section 11 Notice was sent to Edinburgh City Council on 15 January 2024.
15. At the date of the CMD the Respondent owed rent of £8883.59.
16. The Applicant lives alone in the property and is believed to be in employment as an HGV driver.

### **Reasons for Decision**

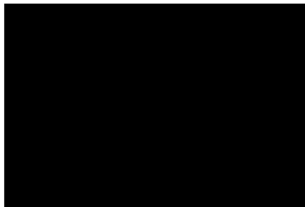
17. The Tribunal was satisfied from the documents submitted and the oral submissions of the Applicant's representative that the parties entered into a Private Residential tenancy that commenced on 20 August 2020. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Ground 12 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to Edinburgh City Council by way of a Section 11 Notice. The Tribunal was also satisfied from the documents produced and the Applicant's representative's oral submissions that the Respondent has accrued rent arrears amounting to £8883.59 as at the date of the CMD and that appropriate pre-action requirement emails had been sent to the Respondent.
18. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondent from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal noted that despite being given an opportunity to submit written representations to the Tribunal and to attend the CMD the Respondent had chosen to do neither. The Tribunal also took account of the fact that the Respondent was making no effort to engage with the Applicant's letting agents or to make any attempt to pay rent despite apparently being in employment. Given the substantial level of arrears and lack of engagement by the Respondent the Tribunal was satisfied that it was reasonable to grant an order for eviction.

### **Decision**

19. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing, finds the Applicant entitled to an order for the eviction of the Respondent from 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.**



Graham Harding

**Legal Member**

**13 June 2024**  
**Date**