



**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/24/0302**

**Property : 49 Millgate Road, Hamilton ML3 8JX (“Property”)**

**Parties:**

**Yu Property Investment Ltd, 296 Farnborough Road, 48 Grandview, Farnborough, Hampshire GU14 7GZ (“Applicant”)**

**Jewel Homes, Atrium Business Park, North Caldeen Road, Coatbridge ML5 4EF (“Applicant’s Representative”)**

**Diane Gilchrist, 49 Millgate Road, Hamilton ML3 8JX (“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. The documents produced were: a Private Tenancy Agreement which commenced on 5 February 2021; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 15 November 2023 ("Notice to Leave"); a copy of an email from the Applicant’s Representative to the Respondent attaching the Notice to Leave dated 15 November 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 January 2024 and copy emails from Applicant’s Representative to the Respondent regarding rent arrears dated between 27 July and 11 October 2023. The Tribunal had sight of a sheriff officer's execution of service certifying service of the Application on the Respondent on 11 April 2024.

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

A CMD took place before the Tribunal on 20 May 2024 by teleconference. The Applicant was represented by Vikki McGuire of the Applicant’s Representative. The Respondent was not in attendance. Ms McGuire told the Tribunal that she had been in contact with the Respondent who told her that she had viewed a council house the previous week and was moving into the house on 21 May 2024. Ms McGuire said she was confident that the Respondent would remove from the Property but wished the protection of an eviction order in case anything went wrong. She said that the Respondent had messaged her to say she would not attend the CMD as she had arranged alternative accommodation. Ms McGuire told the Tribunal that the Respondent was not in employment and payments towards the rent and arrears were paid via housing benefit. She said that the Respondent lives in the Property with two children aged around 12.

## **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement which commenced on 5 February 2021 ("Tenancy Agreement").
2. The Notice to Leave was served by email on 15 November 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 18 January 2024.

## **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 the absence of a submission from the Respondent, 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 : 20 May 2024**