



**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/24/0505**

**Re: Property at 92 Balgray Avenue, Kilmarnock, KA1 4QT (“the Property”)**

**Parties:**

**Easton Property Residential Limited, 2 Newfield Drive, Dundonald, Ayrshire, KA2 9EW (“the Applicant”)**

**Miss Debbie McCall, 92 Balgray Avenue, Kilmarnock, KA1 4QT (“the Respondent”)**

**Tribunal Members:**

**Andrew Upton (Legal Member) and Ann Moore (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that (i) Ground 12A of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 applies, (ii) it is reasonable to grant an eviction order, and (iii) the Private Residential Tenancy between the Parties will terminate on 22 July 2024.**

**Statement of Reasons**

1. This Application called for its Case Management Discussion by teleconference call on 20 June 2024, alongside the related application CV/24/0509. The Applicant was represented by Miss Barclay. The Respondent was not present or represented.
2. In this Application, the Applicant seeks an eviction order. The Applicant is the landlord, and the Respondent the tenant, of the Property under and in terms of a Private Residential Tenancy Agreement. The Applicant contends that the Respondent is in substantial rent arrears, being arrears in a sum which is in excess of six months’ rent. The Applicant gave Notice to Leave to the

Respondent on 21 November 2023 specifying Ground 12A of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) as the ground for eviction. Ground 12A, which provides that the existence of rent arrears in a sum of at least six months’ rent is a ground for eviction, was introduced temporarily by the Cost of Living (Tenant Protection) (Scotland) Act 2022. That Act, and that ground, has since been repealed, but still applies for actions founding upon notices relying on Ground 12A which were served prior to the repeal of those provisions.

3. In terms of Rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017, the Tribunal may do anything at a CMD that it may do at a Hearing, including make a Decision. In terms of Rule 2, the Tribunal must have regard to the overriding objective to deal with proceedings justly when making a Decision. That includes the need to avoid unnecessary delay.
4. The Respondent has received service of a copy of the Application and accompanying papers, together with the details for joining the CMD. She has not lodged any written representations, and has chosen not to attend the CMD to dispute the allegations set out in the Application. In the circumstances, the Tribunal is satisfied that the Respondent does not dispute that she is in rent arrears of £4,194.87 for the period 5 December 2021 until 5 January 2024, or that the said sum remains unpaid. That sum is a sum in excess of six months’ rent, and therefore meets the value requirement of Ground 12A.
5. The only extant matter for the Tribunal to consider is whether it is reasonable to grant the eviction order. In absence of the Respondent, the Tribunal made inquiries with the Applicant’s Representative. Miss Barclay confirmed that the Property is a three-bedroom semi-detached dwellinghouse. The Respondent lives there alone. The Property has not been adapted for the Respondent’s use. To the best of the Applicant’s knowledge, the Respondent has no disability, and does not access any local specialist services. The Respondent is believed to be in employment. The Respondent appears to be in receipt of universal credit with a housing element. Over the past few months, the housing element of universal credit has been paid directly to the Applicant, but there is a considerable shortfall. The Respondent has not engaged with the Applicant since 2023. The Applicant is a property management company that manages lettings for different property owners. The property owner in this case has a portfolio of properties, and intends to re-let the Property following the Respondent’s removal. The Respondent’s rent arrears have increased since the Application was raised to the sum of £6,602.47, which is a sum in excess of 12 months’ rent.
6. In all of the circumstances, the Tribunal is satisfied that it is reasonable to grant an eviction order. For the purposes of section 51(4) of the 2016 Act, the Private Residential Tenancy between the parties will terminate on 22 July 2024.

## 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.

**A. Upton**

20/06/2024

Legal Member/Chair

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Date