



**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/24/0436**

**Re: Property at 3A St Andrews Street, Dumfries, Dumfries and Galloway, DG1 1BS ("the Property")**

**Parties:**

**Mr James Alan Gatt and Mrs Norma Elizabeth Gatt, 7 Gordon Street, Dumfries, DG1 1EG ("the Applicants")**

**Mr Rhys Curtis Mundell, 3A St Andrews Street, Dumfries, Dumfries and Galloway, DG1 1BS ("the Respondent")**

**Tribunal Members:**

**Gillian Buchanan (Legal Member) and Elaine Munroe (Ordinary Member)**

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

At the Case Management Discussion ("CMD"), which took place by telephone conference on 25 June 2024, the Applicants were represented by Ms Sara Di Carlo of Harper Macleod, Solicitors, Glasgow. The Respondent was neither present nor represented and had lodged no written representations.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

The CMD was in respect of this matter and the related case bearing reference FTS/HPC/CV/24/0435.

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that:-**

**Background**

The Tribunal noted the following background:-

- i. The Applicants leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 9 January 2023.

- ii. The rent payable in terms of the PRT is £500 per calendar month.
- iii. The rent arrears due as at the date of the application were £3,240.
- iv. On 11 October 2023, the Applicants per their agents served on the Respondent by email and by recorded delivery post a Notice to Leave requiring the Respondent remove from the Property by 14 November 2023 on the basis that rent arrears had accrued over three consecutive months.
- v. The Applicants have served on Dumfries & Galloway Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

### **The CMD**

At the CMD Mr Di Carlo for the Applicants made the following representations:-

- i. That the application proceeds upon Ground 12 of Schedule 3 of the 2016 Act.
- ii. That the deposit paid by the Respondent at the outset of the tenancy is believed to still be held in a tenancy deposit scheme.
- iii. That the Respondent's circumstances are not known. The Property has not been modified for any disability and the Respondent has no disability. He is not believed to have any dependents or partner living with him. He is still in occupation of the Property. Rent was privately funded and the arrears have not accrued due to any failure to pay benefits.
- iv. The rent arrears were £4,240 as at March 2024.
- v. The Respondent has not engaged in response to the pre-action protocol letters or otherwise.
- vi. The Applicants seek an eviction order.

### **Findings in Fact**

- i. The Applicants leased the Property to the Respondent in terms of the PRT.
- ii. The rent payable in terms of the PRT is £500 per calendar month.
- iii. The rent arrears due as at the date of the application were £3,240.
- iv. On 11 October 2023, the Applicants per their agents served on the Respondent by email and by recorded delivery post a Notice to Leave requiring the Respondent remove from the Property by 14 November 2023 on the basis that rent arrears had accrued over three consecutive months.
- v. The Applicants have served on Dumfries & Galloway Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- vi. The rent arrears were £4,240 as at March 2024.
- vii. The Respondent has not engaged in response to the pre-action protocol letters or otherwise.
- i. It is reasonable, in the circumstances, that an eviction order be granted in favour of the Applicants given the level of rent arrears accrued and the lack of engagement from the Respondent.

### **Reasons for Decision**

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicants within the application papers and orally by Ms Di Carlo at the CMD was not challenged and was accepted by the Tribunal.

The Tribunal considered whether or not it would be reasonable to grant an eviction order and determined that it is reasonable to grant an eviction order under Ground 12 of Schedule 3 of the 2016 Act on the basis that the rent arrears accrued exceed at least 8 months in value as at March 2024.

**Decision**

The Tribunal granted an eviction order in favour of the Applicants

**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.**

# Gillian Buchanan

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**Legal Member/Chair**

**25 June 2024**  
**Date**