



**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/24/0953

Order granted on 16 July 2024.

**Re: Property at Flat 4, 244a High Street, Kirkcaldy, KY1 1JT (“the Property”)**

**Parties:**

**Ad Astra Assets Ltd, a company incorporated under the Companies Acts and having their registered office at Zenlet Unit 15 Evans Business Centre, Mitchelston Drive, Kirkcaldy, United Kingdom, KY1 3NB (“the Applicants”)**

**David Thomson, residing at Flat 4, 244a High Street, Kirkcaldy, KY1 1JT (“the First Respondent”)**

**Tribunal Members:**

**Paul Doyle (Legal Member)  
Mary Lyden (Ordinary member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order against the first respondent 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**

1. The Applicants 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 Applicants lodged with the Tribunal Form E dated 26/02/2024. The documents produced were a Tenancy Agreement; a notice to leave served on 24/01/2024, 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.

2. By interlocutor dated 19/03/2024, the application was referred to this tribunal. On 11/06/2024 the First-tier Tribunal for Scotland (Housing and Property Chamber) served notice of referral on both parties, directing the parties to make any further written representations. No further representations were received.

### **Case Management Discussion**

3. A case management discussion took place by telephone conference at 2.00pm on 16 July 2024. The applicants were represented by Mr A Stewart, of Gilson Gray LLP. 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**

4. The Tribunal made the following findings in fact:

(i) The Applicants and the Respondent entered into a Private Residential Tenancy Agreement for the Property on 13/06/2023.

(ii) The rent in terms of the Tenancy Agreement was £330.00 per month.

(iii) Since October 2023 the respondent had not paid the full monthly rental. At the date of application and at today's date the respondent has been in arrears of rent for more than three consecutive months. At the date of application, there were rent arrears totalling £1,515.29. At today's date, the rent arrears total £3,495.29.

(iv) The respondent remains in the property, where he lives alone. The property is a studio flat. The respondent is an independent 49 year old, employed, man with no known health problems. He does not receive state benefits. He is capable of finding alternative accommodation.

(v) It is reasonable to grant an order for repossession of the property.

(vi) The respondent does not resist the application for repossession.

(vii) On 24/01/2023 the applicant served a notice to leave on the respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. A section 11 notice was served on both the respondent and the local authority by the applicant. On 26/02/2024, the applicant submitted an application to the tribunal.

## **Reasons for the Decision**

5. The Applicants seek recovery of possession of the Property in terms of Ground 12 of schedule 3 to the 2016 Act. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

6. 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. The basis for possession set out in in terms of Ground 12 of schedule 3 to the 2016 Act are established.

7. The respondent offers no resistance to the application. In all the circumstances, it is reasonable to grant an order for possession.

8. For these reasons, the Tribunal determined to grant an Order for possession.

## **Decision**

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property against the first in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 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

**Date: 16<sup>th</sup> July 2024**