

**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/24/0554**

**Property : 8 Finmore Place, Dundee DD4 9LZ (“Property”)**

**Parties:**

**David Bruce and Mike Tippett, 83 Old Glamis Road, Dundee DD3 8JJ (“Applicant”)**

**Campbell Boath, Bank House, 1 Stirling Street, Dundee DD3 6PJ (“Applicant’s Representative”)**

**Tamara Higgins, 8 Finmore Place, Dundee DD4 9LZ (“Respondent”)**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Gordon Laurie (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 22 June 2023; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 21 December 2023 ("Notice to Leave"); Royal Mail receipt evidencing posting on 21 December 2023; Royal Mail proof of delivery on 28 December 2023; rent statement; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 1 February 2024 and copy communications from the Applicant to the Respondent regarding rent arrears. The Tribunal had sight of a sheriff officer's execution of service certifying service of the Application on the Respondent on 4 July 2024.

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

A CMD took place before the Tribunal on 7 August 2024 by teleconference. The Applicant was represented by Alec Campbell of the Applicant’s Representative. The Respondent was not in attendance.

Mr Campbell told the Tribunal that he did not have an up to date statement of rent arrears. He said he did not know anything about the Respondent’s personal circumstances. He told the Tribunal that the Applicant owns around 10 or 11 residential rental properties. He thought the Applicant would rent the Property again if they obtained possession. The Tribunal asked Mr Campbell if he could confirm that rent equivalent to one month’s rent was outstanding. He said he understood that it was when he spoke to his client 4 weeks ago. The Tribunal adjourned to allow Mr Campbell to check the current rent arrears.

On resuming the CMD, Mr Campbell told the Tribunal that the arrears are currently £3176.30. He said that housing benefit of £750 per month is now being paid direct to the Applicant. He said that in addition the Applicant is receiving £30 per month from universal credit towards the arrears. He did not know for how long housing benefit had been paid direct to the Applicant. He said that prior to that the housing benefit was paid to the Respondent but she did not pass it on to the Applicant. He said the Applicant had told him that the Respondent is not in employment and has three school age children living with her the oldest of whom is around 10 years old.

## **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement dated 22 June 2023.
2. The Notice to Leave was served by recorded delivery post on 21 December 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. At the date of the Case Management Discussion the rent was in arrears by an amount greater than the amount which would be payable as one month’s rent under the tenancy.
5. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 1 February 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 as well as the oral submission from the Applicant's Representative 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.**

# Joan Devine

**Joan Devine  
Legal Member**

**Date : 7 August 2024**