



**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/24/1026**

**Re: Property at 231 Braehead Road, Paisley, PA2 8QN (“the Property”)**

**Parties:**

**Mr Andrew Greet, 11 Shuna Gardens, Glasgow, G20 9ER (“the Applicant”)**

**Miss Shirlee Macpherson, 231 Braehead Road, Paisley, PA2 8QN (“the Respondent”)**

**Tribunal Member:**

**Andrew Cowan (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted.**

**Background**

- 1. This is an application for an eviction order in regard to a Private Residential Tenancy (“PRT”) made in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (as amended) (“the Rules”). The PRT is between the Parties and relates to the Property.**
- 2. The application relies upon a Notice to Leave dated 25 January 2024, issued in terms of section 52 of the Private Housing (Tenancies) (Scotland) Act 2016. The notice was served upon the Respondent by email on 25 January 2024, all in accordance with the provisions of the PRT. The Notice relied upon Ground 12 of Schedule 3 of Part 1 of the 2016 Act, in that “the tenant has been in rent arrears for three or more consecutive months”. The Notice to Leave intimated that an application to the Tribunal would not be made before 25 February 2024.**

3. The Application papers included evidence that a section 11 notice, in terms of the Homelessness Etc. (Scotland) Act 2003, had been served upon Renfrewshire Council by email on 29 February 2024.
4. The Application papers also included copy letters from the Applicants' letting agents (dated 15 June 2023, 3 September 2023, 18 December 2023 and 5 January 2024) issued to the Respondent in which the Applicant sought to provide the Respondent with information and advice in relation in compliance with the pre-action protocol prescribed by the Scottish Ministers.

#### **Case Management Discussion**

5. A Case Management Discussion ("CMD") took place by teleconference on 28 July 2024. The Applicants were represented at the CMD by Craig Watson, from the Applicant's letting agents, LM Properties.
6. The Respondent did not join the CMD call. The Tribunal were satisfied that the Application, and details of the CMD, had been intimated upon the Respondent by Sheriff Officers on 18<sup>th</sup> June 2024. The Respondent has not made any written representations to the Tribunal in advance of the CMD. The Tribunal was satisfied that the Respondent had been given reasonable notice of the date, time and place of the CMD and that the requirements of rule 24(1) of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Procedure Rules") had been duly complied with. In the circumstances the Tribunal proceeded with the application in accordance with rule 29 of those Procedure Rules.
7. At the CMD the Tribunal was able to consider:
  - a. The terms of the tenancy agreement between the parties. The tenancy agreement was a Private Residential Tenancy Agreement in relation to the Property. The tenancy between the parties had commenced 03 September 2018. The initial monthly rent due in terms of the tenancy agreement between the parties was £510.00.
  - b. A Statement of rent and arrears had been lodged with the Application showing total rent arrears due by the Respondent as of 03 February 2024 in the sum of £2797.

#### **Findings in Fact and Law**

8. The Applicant is the owner of the Property.
9. The Applicant let the Property to the Respondent under a Private Residential Tenancy with commencement on 3 September 2018 ("the

Tenancy"). The rent due under the tenancy agreement is stated as £505 per month. The Applicant has charged the Respondent £495 per month by way of rent, notwithstanding the amount stated in the tenancy agreement.

10. The Applicant has issued a Notice to Leave dated 25 January 2024 in terms of section 52 of the Private Housing (Tenancies) (Scotland) Act 2016. The notice was served upon the Respondent by email dated 25 January 2024.
11. The Applicant has raised proceedings for an order for eviction with the Tribunal, under Rule 109, relying on Ground 12 of Schedule 3 of Part 1 of the 2016 Act, in terms of an Application to the Tribunal dated 1 March 2024.
12. A section 11 notice in the required terms of the Homelessness Etc. (Scotland) Act 2003 was served by email upon Renfrewshire Council on the Applicant's behalf on 29 February 2024.
13. The Respondent has been in rent arrears for three or more consecutive months.
14. The Applicant has written to the Respondent on at least four occasions and has requested payment of arrears of rent due. The Applicant has offered advice to the Respondent as to where she might seek assistance in respect of debts and payment towards her arrears. The Applicant has offered to consider a payment plan from the Respondent to allow the Respondent to pay arrears of rent over an agreed period. The Respondent has not made any offer to agree such a payment plan.
15. It is reasonable to issue an eviction order.

#### Reasons for Decision

16. The Tribunal were satisfied on the basis of the application and supporting papers that the Notice to Leave had been competently drafted and served upon the Respondent.
17. The Tribunal were satisfied that it had had sufficient information upon which to make a decision at the CMD, having considered the written and oral representations made by the Applicant. The Rules allow, at rule 17(4), for a decision to be made at a CMD as at a hearing before a full panel of the Tribunal.
18. Ground 12 of Schedule 3 to the 2016 Act (as amended and applying to this application) states that:
  - (1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months....

and that...

**(3) The First-tier Tribunal may find that the ground named by sub-paragraph applies if—**

**(a) for three or more consecutive months the tenant has been in arrears of rent, and**

**(b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.**

**19. The Tribunal were satisfied, on the uncontested evidence provided, that the Respondent has been in arrears of rent for three or more months. The Applicant's representative confirmed that, as at the date of the CMD, the Respondent's rent arrears were £2713.00. The monthly rent charged by the Applicant is currently £495.00. On that basis the Tribunal determined that paragraph 3(a) of Ground 12 was satisfied.**

**20. The Tribunal then considered whether it was reasonable to issue an eviction order under paragraph 3(b) of Ground 12.**

**21. In determining whether it is reasonable to grant the order, the Tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties**

**22. In this case the tribunal finds that it is reasonable to grant the order.**

**23. At the CMD the Applicants representative advised the tribunal that the Respondent has accrued arrears of rent in the sum of £2713 as at the date of the tribunal. The Applicants letting agents have written to the Respondent reminding her of her obligation to pay rent and to request payment of rent arrears which have accrued. The Respondent has not engaged with the Applicants or their letting agents in relation to these rent arrears and has not made any proposal to pay the arrears of rent which have accrued. The Applicants wish to recover possession of the property because of the level of rent arrears which have been accrued by the Respondent. The Applicant's representative explained that the Respondent does receive limited assistance to pay her rent through universal credit benefit. The amount of that benefit varies on a monthly basis and the most recent payment received by the Applicant through universal credit was £29.07. The Tribunal accepted the Respondent being in arrears of rent is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.**

**24. The Tribunal consider that it is reasonable to grant the eviction order. In reaching a decision on whether it was reasonable to grant the order sought the Tribunal took account of the fact that the Respondent, despite being given an opportunity to submit written representations to the Tribunal and to attend the CMD, had chosen to do neither. The Tribunal also noted that the Respondent had repeatedly failed to respond to the efforts of the Applicant's letting agents to agree a plan to**

allow the Respondents an opportunity to make payment of the rent arrears over an agreed period of time. The Applicant has made reasonable efforts to support the Respondent by providing her with information as to where she might seek further assistance with paying her rent. The Respondent has been in consistent arrears of rent for a number of years.

25. On the evidence presented, the Tribunal is satisfied that the balance of reasonableness is weighted towards the Applicant.

26. The Tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

27. The Tribunal consider that in the circumstances of the case it would be appropriate to allow the Respondent a period of two months to remove from the Property to allow her the opportunity to seek alternative accommodation. Mr Watson, on behalf of the Applicant, did not oppose the Tribunal's proposal to allow the Respondent a period of 2 months to remove from the Property. Accordingly, the Tribunal have determined that the order for possession should not be executed prior to 12 noon on 26 September 2024.

## Decision

28. In all the circumstances, the Tribunal grant an order against the Respondent for eviction from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016.

## 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.

Andrew Cowan

26 July 2024

---

Legal Member/Chair

---

Date

