



**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/24/0556**

**Re: Property at 10 BARNET CRESCENT, KIRKCALDY, KY1 1QT (“the Property”)**

**Parties:**

**Mrs Carol Aldred, Toshlair, Strathnaver Street, Helmsdale, KW8 6JH (“the Applicant”)**

**Mr Ian Brannen Astin, 10 BARNET CRESCENT, KIRKCALDY, KY1 1QT (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (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 the Applicant is entitled to the Order sought to evict the Respondent from the property.**

**Background**

1. The Applicant submitted an application under Rule 109 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondent from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 21 May 2024 informing both parties that a CMD had been assigned for 27 June 2024 at 10am, which was to take place by conference call. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make

a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 11 June 2024. No written representations were received by the Tribunal.

#### **The case management discussion – 6 June 2024**

4. The CMD took place by conference call. The Applicant was represented by Ms Rosaleen Doyle, solicitor. The Respondent did not join the conference call and the discussion proceeded in his absence. The Applicant's representative explained that rent arrears have increased to £10,035, which equates to 118 weeks of rent. The last payment made by the Respondent was in March 2022. The Applicant has attempted various means of contact with the Respondent, but he has failed to engage with her in relation to rent arrears. In January 2023, the Respondent told the Applicant that he had alternative accommodation to move to. He did not vacate the Property and remains living there. The Respondent did allow access to the Property in June 2024 for the purposes of an inspection but has made no arrangement to address payment of ongoing rent or the arrears of rent. The Respondent is believed to be in employment. He has 2 children but they do not live with the Respondent.

#### **Findings in Fact**

5. The parties entered into a private residential tenancy which commenced 1 July 2019.
6. The Applicant served Notice to Leave on the Respondent by sheriff officer on 20 November 2023.
7. The Respondent has been in rent arrears for more than three consecutive months.
8. The Respondent has accrued rent arrears which equate to more than 6 months' rent.

#### **Reason for Decision**

9. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicant relied upon grounds 12 and 12A of the Private Housing (Tenancies) (Scotland) Act 2016. The Respondent did not lodge any written representations and failed to participate in the CMD. The information before the Tribunal was that the Respondent has been consistently in arrears of rent since March 2020. The last payment made by the Respondent to the rent account was in March 2022. The level of rent arrears equates to 118 weeks of rent. There was no material before the Tribunal to indicate that the Respondent disputed the rent arrears. The Applicant had complied with the pre-action protocol. The Tribunal was satisfied that grounds 12 and 12A were

established. The Respondent has been given fair notice of these proceedings. He has failed to pay more than 2 years rent and has not made any proposals for payment. The tenancy appears to be unaffordable to the Respondent. In these circumstances, the Tribunal was satisfied that it was reasonable to grant the order for eviction.

### **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.**

# N Irvine

Legal Member/Chair

Date 27 June 2024