



**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/24/0132**

**Re: Property at 38 Ross Drive, Glasgow, G71 5NQ ("the Property")**

**Parties:**

**Sana Saman Akhtar, 88 Coronation Road, Motherwell, ML1 4RE ("the Applicant")**

**Mandy Eskdale, 38 Ross Drive, Glasgow, G71 5NQ ("the Respondent")**

**Tribunal Members:**

**Gillian Buchanan (Legal Member) and Gerard Darroch (Ordinary Member)**

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

At the Case Management Discussion ("CMD"), which took place by telephone conference on 14 August 2024, the Applicant was present and was represented by Mr Deen of Apex Property Services (Scotland) Limited. 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 First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that:-**

**Background**

The Tribunal noted the following background:-

- i. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 28 March 2022.
- ii. The rent payable in terms of the PRT is £1,000 per calendar month.
- iii. On 20 November 2023, the Applicant served on the Respondent by recorded delivery post a Notice to Leave dated 17 November 2023 requiring the Respondent remove from the Property by 20 December 2023 on the basis that rent arrears had accrued over three consecutive months.

- iv. The Applicant has served on North Lanarkshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

### **The CMD**

At the CMD Mr Deen for the Applicant made the following representations:-

- i. Notwithstanding the apparent handwritten amendment to the PRT, the rent has remained at £1,000 per month throughout.
- ii. The rent arrears due were £10,416.48 as at October 2023.
- iii. The current arrears as at the CMD are £15,475.60.
- iv. Payment towards rent continue to be received from North Lanarkshire Council. The payments fluctuate each month for unknown reasons. There has been no payment directly from the tenant since 2020.
- v. The Council is involved in this matter in that neighbours have complained about the accumulation of rubbish in the garden of the Property and a notice was served by the Council on the Applicant as a result. The rubbish includes at least 20 black bin bags of household waste and a mattress.
- vi. The curtains are drawn. There is no answer at the door. There has been no engagement from the Respondent in response to the Notice to Leave of the pre action letters.
- vii. When Mr Deen last spoke with the Respondent she told him she was no longer living at the Property and to speak to her nephew "Jason".
- viii. Mr Deen has tried to speak to "Jason" and to the Respondent's partner, Paul Eskdale, who may be still living in the Property with another partner, all without success.
- ix. The deposit of £1,000 paid by the Respondent at the outset of the tenancy has been "swallowed up" by the rent arrears.
- x. When the Respondent moved into the Property she did so with two children believed to be around 7 and 10 years of age.
- xi. The rent arrears are causing the Applicant distress and hardship.
- xii. The Applicant does not know if the Property is still occupied.
- xiii. The Applicant seeks an eviction order. She requires to recover possession of the Property to deal with the rubbish and is likely to then sell the Property.

### **Findings in Fact**

- i. The Applicant leased the Property to the Respondent in terms of the PRT.
- ii. The rent payable in terms of the PRT is £1,000 per calendar month.
- iii. On 20 November 2023, the Applicant served on the Respondent by recorded delivery post a Notice to Leave dated 17 November 2023 requiring the Respondent remove from the Property by 20 December 2023 on the basis that rent arrears had accrued over three consecutive months.
- iv. As at the date of serving the Notice to Leave the rent arrears were £10,416.48.
- v. The Applicant has served on North Lanarkshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- vi. As at the CMD the rent arrears are £15,475.60.
- vii. The deposit previously paid by the Respondent has already been offset against the rent arrears accrued.
- viii. The Respondent has not engaged in response to the pre-action protocol letters or otherwise.
- ix. It is not known whether the Property is occupied and if so, by who.

- x. It is reasonable, in the circumstances, that an eviction order be granted in favour of the Applicant given the level of rent arrears accrued.

**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 Applicant within the application papers and orally by Mr Deen 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 are very significant with no payment from the Respondent since April 2020.

**Decision**

The Tribunal granted an eviction order in favour of the Applicant.

**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**

**14 August 2024**  
**Date**