

**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**

**Chamber Ref: FTS/HPC/EV/24/0730**

**Re: Property at 16 Stonehaven Crescent, Airdrie, North Lanarkshire, ML6 9TF (“the Property”)**

**Parties:**

**Mr Craig Morrison C.A. Quantuma, 175 West George Street, Glasgow G2 2LB, Trustee of Mr Lendrick Gillies (Gillies Properties), 132 St John's Road, Edinburgh, EH12 8AX (“the Applicant”)**

**Mr George Wilson, 16 Stonehaven Crescent, Airdrie, North Lanarkshire, ML6 9TF (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member) and Ahsan Khan (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property.**

**Background**

1. By application dated 13 February 2024 the Applicant’s representatives, Aquila Management Services, Airdrie applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant submitted a copy of a tenancy agreement, Notice to Leave, Section 11 Notice, Instruction to Sell, Letter of Authority and a rent statement together with other documents in support of the application.

2. By Notice of Acceptance dated 13 March 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. By email dated 12 August 2024 the Applicant’s representatives advised the Tribunal that the Applicant Mr Lendrick Gillies had been sequestrated on 11 June 2024 and the Applicant Mr Craig Morrison appointed as his Trustee and requested that the application be amended to reflect the change in Applicant. The tribunal agreed to the amendment.
4. By email dated 4 September 2024 the Applicant’s representatives intimated a revised rent statement to the Tribunal and the Respondent.
5. Intimation of the CMD was served on the Respondent by Sheriff Officers on 12 September 2024.

### **The Case Management Discussion**

6. A CMD was held by teleconference on 16 October 2024. The Applicant did not attend but was represented by Mr Paul Clark from the Applicant’s representatives. The respondent did not attend nor was he represented. The Tribunal being satisfied that proper intimation of the date and time of the CMD had been given to the Respondent determined to proceed in his absence.
7. The Tribunal noted that the Respondent had entered into a Private Residential tenancy of the property on 1 July 2022 but that he had been a tenant at the property for some time before that date.
8. Mr Clark explained that following the rise in interest rates and the freeze on rents Mr Gillies had found himself in financial difficulties and had begun to sell his portfolio of rental properties. Mr Clark went on to say that unfortunately the Respondent had previously been in substantial arrears of rent but had for a time recommenced payments but after being served with a Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act the Respondent had stopped paying rent completely. Mr Clark said that the rent due had continued to rise and as at 4 September 2024 amounted to £17046.35.
9. Mr Clark confirmed that Mr Gillies had been sequestrated and that his trustee intended to sell the property. He explained that while some of Mr Gillies’ properties had been sold with tenants in place this was not possible in the present case due to the level of rent arrears incurred by the Respondent. Mr Clark said the Trustee had an obligation to raise funds from the sale of the property for the benefit of Mr Gillies’ creditors.

10. In response to a query from the Tribunal Mr Clark advised that the Respondent was a self-employed electrician and was not in receipt of any benefits and was known to have holidayed abroad. Mr Clark was not aware of any reason for the Respondent not paying rent.
11. The Tribunal noted that the Applicant's representatives had been instructed in the sale of the property and that a Section 11 Notice had been sent to North Lanarkshire Council and that a valid Notice to Leave had been sent to the Respondent on 25 October 2023.

### **Findings in Fact**

12. The Respondent commenced a Private Residential Tenancy of the property on 1 July 2022 although he had been a tenant at the property from an earlier date.
13. A Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act was served on the Respondent on 25 October 2023.
14. A Section 11 Notice was sent to North Lanarkshire Council on 13 February 2024.
15. The Applicant has instructed Aquila Management Services to market the property for sale.
16. The Applicant Mr Lendrick Gillies was sequestrated on 11 June 2024 and Mr Craig Morrison C.A. appointed as his Trustee.
17. Since service of the Notice to Leave the Respondent has failed to pay any rent and as at 4 September 2024 owed £17046.35 of rent to the Applicant.

### **Reasons for Decision**

18. The Tribunal was satisfied from the documents submitted and the oral submissions of Mr Clark that the parties entered into a Private Residential tenancy that commenced on 1 July 2022 although the Respondent had been a tenant in the property for some time prior to that date. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Ground 1 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to North Lanarkshire Council by way of a Section 11 Notice. The Tribunal was also satisfied from the documents produced and Mr Clark's oral submissions that the Applicant intends to use the Applicant's representatives to market the property for sale.

19. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondent from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal took account of the fact that despite being given an opportunity to submit written submissions and to attend the CMD the Respondent chose to do neither. The Tribunal had limited information about the Respondent's circumstances but it appeared he was self-employed and not in receipt of benefits and could afford to holiday abroad but had not paid any rent since being served with the Notice to Leave and even prior to that had accrued very substantial rent arrears over a prolonged period. The Tribunal also took account of the fact that the Applicant Mr Gillies had been sequestrated and that his trustee was endeavouring to obtain funds for the benefit of creditors.
20. After carefully considering the circumstances of both parties the Tribunal determined given the high level of rent arrears, the failure of the Respondent to participate in the proceedings and the obligations of the Applicant as Trustee to recover funds for creditors that it was appropriate to grant an order for the eviction of the Respondent from the property.

### **Decision**

21. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing, finds the Applicant entitled to an order for the eviction of the Respondent from 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.**

Graham Harding

**Graham Harding  
Legal Member/Chair**

**16 October 2024  
Date**

