



**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/24/2057**

**Re: Property at 8 Miller Place, Mossblown, KA6 5DA (“the Property”)**

**Parties:**

**Mrs Vivienne Mulhern, 58 Tantallon Drive, Paisley, PA2 9HS (“the Applicant”)**

**Mr Kenneth Riley, 8 Miller Place, Mossblown, KA6 5DA (“the Respondent”)**

**Tribunal Members:**

**Gillian Buchanan (Legal Member) and Mary Lyden (Ordinary Member)**

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

At the Case Management Discussion (“CMD”), which took place by telephone conference on 23 September 2024, the Applicant was in attendance supported by her husband, John Mulhern. The Respondent was neither present nor represented.

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. On 31 March 2024, the Applicant served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 3 May 2024 on the basis that substantial rent arrears had accrued equivalent to 6 months’ worth of rent.
- ii. As at the date of the Notice to Leave being served the arrears accrued were £2,867.65 and the Respondent had made no payments since December 2023.

- iii. A pre-action protocol letter was sent to the Respondent on 23 February 2024.
- iv. The Applicant served on South Ayrshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

### **The CMD**

At the CMD the Applicant made the following representations:-

- i. The Applicant seeks an eviction order.
- ii. The Respondent is believed to still be in occupation of the Property. He does not communicate and does not answer the door.
- iii. In the absence of a tenancy agreement having been produced the Applicant stated that the tenancy with the Respondent is a Private Residential Tenancy ("the PRT").
- iv. The PRT commenced on 11 February 2021.
- v. The rent payable in terms of the PRT is £425 per calendar month.
- vi. A deposit of £450 was paid under the PRT and is still held in an approved scheme, namely My Deposits Scotland.
- vii. The current arrears balance is £5,417.65.
- viii. The last payment towards the rent was on 15 December 2023.
- ix. The Respondent lives alone in the Property.
- x. The Respondent was previously in employment but is believed to have lost his job in around October/November 2023. He was employed as a hard landscaper.
- xi. The last 3 payments of rent received – each in the sum of £350 – were from Universal Credit.
- xii. The Applicant contacted Universal Credit about receiving direct payments of the housing element but was told Universal Credit was "unable" to do that. No reason was given.
- xiii. The Respondent has no disabilities.
- xiv. He is around 55 years of age.
- xv. The Respondent was in regular communication until December 2023. Nothing has been heard from him since.
- xvi. The Respondent did not answer the Applicant's letter to him dated 23 February 2024.
- xvii. The Applicant has not heard from any prospective landlord with regard to a reference or the like.
- xviii. The Property has 2 bedrooms and is therefore under-occupied.
- xix. The Applicant has tried everything possible to have the Respondent engage with her without success.
- xx. The rent is unlikely to be recoverable.

### **Findings in Fact**

- i. The Applicant leased the Property to the Respondent in terms of the PRT.
- ii. The PRT commenced on 11 February 2021.
- iii. The rent payable in terms of the PRT is £425 per calendar month.
- iv. A deposit of £450 was paid under the PRT and is still held in an approved scheme, namely My Deposits Scotland.
- v. The Respondent lives alone in the Property. He is around 55 years of age.
- vi. On 31 March 2024, the Applicant served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 3 May 2024 on the basis that substantial rent arrears had accrued equivalent to 6 months' worth of rent.
- vii. As at the date of the Notice to Leave being served the arrears accrued were £2,867.65 and the Respondent had made no payments since December 2023.
- viii. A pre-action protocol letter was sent to the Respondent on 23 February 2024.

- viii. The Applicant served on South Ayrshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- vi. The current arrears balance is £5,417.65.
- vii. The last payment towards the rent was on 15 December 2023.
- viii. The Respondent has not engaged with the Applicant since December 2023.
- ix. It is reasonable, in the circumstances, that an eviction order be granted in favour of the Applicant given the level of rent arrears accrued and the lack of engagement from the Respondent.

### **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 the Applicant 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 12A of Schedule 3 of the 2016 Act on the basis that the rent arrears accrued are very significant and amount to in excess of 12 months rent.

### **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.**

G.Buchanan

Legal Member/Chair

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23 September 2024  
Date