



**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/24/0114**

**Property : 29 Mariners View, Ardrossan KA22 8BF (“Property”)**

**Parties:**

**Steven Singh and Gurwinder Kaur, 23 Madeira Street, Greenock PA16 7XF (“Applicant”)**

**Margaret Gilheaney and Pat Gilheaney, 29 Mariners View, Ardrossan KA22 8BF (“Respondent”)**

**CHAP, Michael Lynch Centre for Enterprise, 71 Princes Street, Ardrossan KA22 8DG (“Respondent’s Representative”)**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Gordon Laurie (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined that an order for possession of the Property should be made but to delay enforcement until 6 January 2025.**

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Private Tenancy Agreement which commenced on 11 March 2020; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 (“Act”) dated 18 August 2023 (“Notice to Leave”); Royal Mail proof of delivery on 21 August 2023; rent statement; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 15 December 2023 and copy communications from the Applicant to the Respondent regarding rent arrears.

**Case Management Discussion (“CMD”)**

A CMD took place before the Tribunal on 7 August 2024. Reference is made to the note of the CMD. The CMD was continued to allow the Respondent further time to clarify their entitlement to benefits and to address the rent arrears.

## **Continued CMD**

A continued CMD took place before the Tribunal on 18 November 2024. On 1 November 2024 the Respondent's Representative informed the Tribunal that they were no longer acting on behalf of the Respondent. They said that the Respondent initially engaged with them regarding benefit applications but there had been no communication from them for some time.

Mr Singh of the Applicant was in attendance. In advance of the continued CMD the Applicant lodged an updated statement of rent arrears which indicated that the arrears were £6,667 as at 11 November 2024. The rent statement lodged with the application indicated the arrears were £4,336.19 as at 5 February 2024.

Mr Meek of the Respondent's Representative attended the continued CMD and told the Tribunal that the Respondent had contacted him on the previous Friday and asked him to act on their behalf. He said that was the first contact he had from the Respondent for some time. Mr Singh told the Tribunal that he had no contact from the Respondent other than a text message the previous week when the Respondent told him £500 had been paid and told him the heating was not working. He said he rang the number but the call was not picked up. Mr Meek said that if the Tribunal was minded to make an order for possession that enforcement be delayed to allow the homeless team at the local authority to assist the Respondent with alternative accommodation.

## **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement dated 11 March 2020.
2. The Notice to Leave was served by recorded delivery post on 21 August 2023.
3. At the date of service of the Notice to Leave and the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months.
4. At the date of service of the Notice to Leave and the date of making the Application, the Respondent had substantial rent arrears.
5. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 15 December 2023.

## **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51 of the Act, the First-tier Tribunal may issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies. In the Notice to Leave the Applicant stated that they sought recovery of possession of the Property on the basis set out in ground 12 which is that the tenant has been in rent arrears for three or more consecutive months and 12A which is that the tenant has substantial rent arrears (equivalent to 6 month's worth of rent).

The Tribunal considered the statement of rent arrears provided and determined that grounds 12 and 12A had been established. Having considered all of the circumstances the Tribunal determined that it was reasonable to issue an eviction order but to delay enforcement until 6 January 2025. The Tribunal was satisfied that the arrears had not arisen due to any delay in payment of benefits. It was apparent that the First Respondent has a number of health issues and vulnerabilities. A delay in enforcement would allow the local authority additional time to identify appropriate alternative accommodation.

## **Decision**

The Tribunal grants an order for possession of the Property but to delay execution until 6 January 2025.

## **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.**

**Joan Devine  
Legal Member**

**Date : 18 November 2024**