



**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/24/2622**

**Re: Property at 3 Millgate Crescent, Caldercruix, ML6 7QY (“the Property”)**

**Parties:**

**Mr Mark Blackburn, 8 Church Street, Wenhaston, Halesworth, Suffolk (“the Applicant”)**

**Mr Shaun Cairney, Mrs Gayle Cairney, 3 Millgate Crescent, Caldercruix, ML6 7QY (“the Respondent”)**

**Tribunal Members:**

**Richard Mill (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction be granted against the respondents**

**Introduction**

This application seeks an eviction order and is under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016.

Intimation of the application and of the initial Case Management Discussion (CMD) in both applications were effected upon the respondents by Sheriff Officers on 2 October 2024.

The CMD took place by teleconference on 8 November 2024 at 10.00 am. The applicant were represented by Miss Simone Callaghan of TC Young Solicitors. The first respondent joined the hearing and represented the respondents’ own interests.

## Findings and Reasons

The property is 3 Millgate, Caldercruix, ML6 7QY. The applicant is Mr Mark Blackburn who is the heritable proprietor and registered landlord. The respondents are Shaun Cairney and Mrs Gayle Cairney who are the tenants.

The parties entered into a private residential tenancy which commenced on 1 September 2018. The agreed rent in terms of the written lease was £650 per month and has since risen to £675.

The current eviction proceedings are based upon arrears of rent and the ground relied upon is ground 12, contained within Part 1, Schedule 3 to the 2016 Act, namely that the respondents are in rent arrears over three consecutive months.

The application is supported by a detailed rent statement which reflects the rent arrears relied upon. The tribunal found this a credible and reliable document and attached weight to it. As at the date of application £4,250 was outstanding. The arrears have now increased to £6,225 as at the date of the hearing.

The tribunal found that the notice to leave upon which the eviction application proceeds is valid. It is dated 10 May 2024. 28 days' notice required to be given. The notice served states an application would not be submitted to the tribunal for an eviction before 8 June 2024. The notice was served personally upon the respondents by Sheriff Officers on 10 May 2024 which is evidenced by a Sheriff Officer's execution. Sufficient notice was given.

The tribunal was satisfied that more than three consecutive months of rent was outstanding when the notice to leave was served and remains unpaid by the respondents. This establishes ground 12. The tribunal proceeded to consider the issue of reasonableness.

The respondents wish to seek alternative accommodation which is more suitable for their needs. They live with their three children 5, 4 and 3 years old. They have no known disabilities or other vulnerabilities. The first respondent works part time and cares for the second respondent who has some health issues.

The respondents have been obtaining advice from their MP, the local authority and the social work department regarding their circumstances. They are having a meeting in the next week regarding the offer of another tenancy though it may be number of weeks until the property is ready for re-let.

There is evidence that the local authority has been advised of the eviction proceedings with a relevant section 11 notice having been issued by the applicant. In the event of an eviction order being granted that the local authority have a duty to make alternative accommodation available to the respondents.

The rent arrears pre-action requirements are evidenced to have been complied with.

The applicant is semi-retired and relies upon the rent as part of his regular income. It is unreasonable to require the applicant to continue to make the property available to the respondents in the absence of rent being regularly paid. The last payment was made in July 2024. A substantial amount of rent arrears is now outstanding and no proposals have been made to make payment of these.

In all of the circumstances the tribunal determined that it was reasonable to grant the eviction order sought by the applicant. Due to the personal circumstances of the Respondents the tribunal extended the period before any eviction can be enforced. The date specified is 31 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.**

Richard Mill

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Legal Member/Chair

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Date: 8 November 2024