



**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/24/2254**

**Re: Property at 3C Dorward Drive, Crail, Fife, KY10 3WJ (“the Property”)**

**Parties:**

**Kingdom Initiatives Limited, Saltire Centre, Pentland Court, Glenrothes, KY6 2DA (“the Applicant”)**

**Miss Caitlin Wishart, Mr John Hughes, 3C Dorward Drive, Crail, Fife, KY10 3WJ (“the Respondent”)**

**Tribunal Members:**

**Mary-Claire Kelly (Legal Member) and Helen Barclay (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction**

**Background**

1. By application dated 17 May 2024 the applicant seeks an order for eviction relying on ground 12 (rent arrears) in Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. The application was conjoined with application reference FTS/HPC/CV/24/2257 seeking an order for payment of arrears in the sum of £6977.95.
3. The applicant lodged the following documents with the application:
  - Copy tenancy agreement
  - Notice to Leave and Guidance with proof of delivery
  - Rent statement

- Pre action letters.
  - Notice under section 11 of the Homelessness Etc. (Scotland) Act 2003.
  - Kingdom Housing Association Limited to Kingdom Initiatives Limited  
Head Lease
4. A case management discussion (“cmd”) was assigned for 5 November 2024.

**Case management discussion (“cmd”) – teleconference – 5 November 2024**

5. The applicant was represented by Ms Callaghan, TC Young solicitors. The respondents were not present or represented. The Tribunal was satisfied that the respondents had received proper notice of the cmd and proceeded with the cmd in their absence in terms of rule 29.
6. Ms Callaghan sought an order for eviction. She stated that the arrears in the property had continued to rise. She stated that the total rent outstanding as at 18 October 2024 amounted to £6977.95 as evidenced by the rent accounts. She referred to the tenancy agreement which had been lodged. In terms of clause 8 the respondent undertook to pay rent to the applicant at the rate of £462.93 per month. She stated that the rent had been increased on 2 occasions, most recently to £503.04 from 1 August 2023. She explained that the applicant had sought to engage with the respondents to discuss the arrears issue. Pre action letters had been sent to the respondents signposting them to assistance. Ms Callaghan stated that there had been an attempt to enter into a repayment arrangement in December 2022 however the respondents had failed to adhere to the arrangement. She stated that the last communication the respondents had made with the applicant was when Mr Hughes contacted in February 2023. He stated that at that time he was unable to make payment as he was unable to work due to an injury. He also advised that his father had recently passed away. Ms Callaghan advised that the applicant’s staff had called at the property on 2 occasions in March and April 2024. They noted that the property was occupied however they were not able to gain access to discuss the arrears. She advised that attempts had also been made to telephone the respondents to discuss the arrears without success. Ms Callaghan advised that as far as the applicant was aware the property was occupied by the 2 respondents with no dependents present. Her

information was that first respondent is 23 years old while the second respondent is 29 years old.

7. It was noted from the papers which had been lodged by the applicant that the tenancy had been signed between the respondents and the owners Caraille Green NHT 2012 LLP. The property had been purchased by Kingdom Housing Association Limited who had let the property to the applicant in terms of a Head Lease dated 12 March 2021, copy of which was lodged with the conjoined applications.

### **Findings in fact and law**

8. The respondents entered into a private rented tenancy agreement in respect of the property with a commencement date of 28 December 2018.
9. The property was sold to Kingdom Housing Association who leased the property to the applicant.
10. The applicant is the landlord of the property.
11. Monthly rent due in terms of the tenancy agreement is £503.04.
12. A valid notice to leave dated 23 February 2024 was served on the respondents.
13. Arrears as at 18 October 2024 amounted to £6977.95.
14. Ground 12, in schedule 3 of the 2016 Act has been established.
15. Letters dated 5 June 2023, 29 February 2024 and 19 April 2024 were sent to the respondents by the applicant to discuss the rent arrears issue.
16. The applicant sought to engage with the respondents to discuss the arrears on multiple occasions.
17. The applicant has complied with the pre-action protocol referred to in paragraph 12, schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
18. The first respondent is 23 years old.
19. The second respondent is 29 years old.

### **Reasons for the decision**

20. The Tribunal had regard to the application and the documents lodged on behalf of the applicant. The Tribunal also took into account Ms Callaghan's submissions at the cmd.

21. Ground 12 states:

a. 12(1) *It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.*

(2).....

(3) *The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—*

*(a) for three or more consecutive months the tenant has been in arrears of rent, and*

*(b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.*

(4) *In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider—*

*(a) whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit and*

*(b) the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.*

22. The Tribunal was satisfied on the basis of the rent accounts that had been lodged that the respondents had been in arrears of rent for a period in excess of three months.

23. In relation to question of reasonableness the Tribunal determined that the correspondence sent to the respondent and the attempts to engage by telephone and visits complied with the pre-action protocol. The correspondence that had been submitted provided the respondents with information relating to the rent arrears and guidance on how to access assistance in compliance with the pre-action protocol on multiple occasions.

24. The Tribunal was satisfied that the arrears at the property amounted to £6977.95 as at 18 October 2024 and that arrears had not been reduced since that date. The respondents had not lodged any information which sought to demonstrate that the arrears were in any part due to issues with benefits.

25. The Tribunal took into account the information provided by Ms Callaghan. The Tribunal noted the high level of arrears, which continued to rise and that no

contact or payment had been made by the respondents for a considerable period of time.

26. The Tribunal gave particular weight to the fact that the respondents had not taken any steps to oppose the application or lodge a defence.

27. The Tribunal gave weight to the fact that the respondents were 29 and 23 and resided in the property with no dependent children. The Tribunal did not consider that this factor outweighed the factors in favour of granting an order.

28. In the foregoing circumstances the Tribunal determined that it was reasonable to grant an order for eviction.

### **Decision**

**The Tribunal determined to grant an order for eviction.**

### **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.**

**Mary-Claire Kelly**

**Legal Member/Chair**

**5 November 2024**  
**Date**