



**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/24/2677**

**Re: Property at Top Right Floor 21 Northfield Place, Aberdeen, AB25 1SA (“the Property”)**

**Parties:**

**Pantone300 Properties Limited, 53 Argyll Place, Aberdeen, AB25 2HU (“the Applicant”)**

**Miss Lesley Panton, Top Right Floor 21 Northfield Place, Aberdeen, AB25 1SA (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member) and Mary Lyden (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 12 June 2024 the Applicant’s representatives, Winchesters Lettings Ltd, applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant submitted a copy of a tenancy agreement, a rent statement, a Notice to Leave, Section 11 Notice, text messages between the Applicant and the Respondent and a letter of authority from the Applicant together with other documents in support of the application.
2. By Notice of Acceptance dated 4 July 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 2 October 2024.

### **The Case Management Discussion**

4. A CMD was held by teleconference on 6 November 2024. The Applicant's director, Mr Douglas Reid attended in person and was represented by Miss Billie Redgate from the Applicant's representatives. The Respondent did not attend nor was she 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 her absence.
5. The Tribunal noted from Miss Redgate that the Respondent had commenced her tenancy of the property on 10 July 2023 and that rent had been paid until December 2023 and then the Respondent had fallen into arrears and no rent had been paid from February 2024 onwards. Miss Redgate advised the Tribunal that Mr Reid had made significant attempts to agree payment plans with the Respondent and had shown a great deal of understanding of the Respondent's issues as could be seen from the exchange of text messages submitted with the application.
6. Miss Redgate said that she did not know if the Respondent remained in employment or was in receipt of benefits. She submitted that the Respondent was unable to pay the rent for the property and that the current rent arrears amounted to £5950.00 and the Applicant wished the order for eviction to be granted.
7. The Tribunal noted that a Notice to Leave under Ground 12 of Schedule 3 of the 2016 Act had been served on the Respondent by email on 9 May 2024 and that a Section 11 Notice had been sent to Aberdeen City Council by email on 12 June 2024.
8. Mr Reid confirmed that there was a standard security over the property that cost about £250 pounds per month. He also advised the Tribunal that the Applicant had a portfolio of 15 let properties and that given the Respondent's level of debt of £5950.00 that had a significant impact on the Applicant's cash flow and the level of refurbishment it could carry out on its other properties.
9. In response to further queries from the Tribunal, Mr Reid confirmed that the Respondent lived alone in the one-bedroom property. He said that the Respondent had at the commencement of the tenancy been employed as a mental health nurse and that she had moved from North-East England following the break up from her partner. Mr Reid also advised the Tribunal that he could not say if there had been any change to the Respondent's circumstances. He explained that in general if a tenant had problems he tried to reach an agreement with them to resolve

issues and that is what he had tried to do with the Respondent but that she had stopped communicating with him.

10. After consulting with Mr Reid, Miss Redgate advised the Tribunal that if an order for eviction was granted, Sheriff Officers would not be instructed to enforce the order until after Christmas 2024.

### **Findings in Fact**

11. The Respondent commenced a Private Residential Tenancy of the property on 10 July 2023.
12. A Notice to Leave under Ground 12 of Schedule 3 of the 2016 Act was served on the Respondent on 9 May 2024.
13. At the date of service of the Notice to Leave the Respondent owed rent of £2380.00
14. A Section 11 Notice was sent to Aberdeen City Council on 12 June 2024.
15. At the date of the CMD the amount of rent due by the Respondent to the Applicant had risen to £5950.00 with no rent having been paid since 10 January 2024.
16. The Applicant has a standard security over the property and the Respondent's failure to pay rent has an adverse impact on the Applicant's business.
17. The Respondent lives alone in the property.

### **Reasons for Decision**

18. The Tribunal was satisfied from the documents submitted and the oral submissions that the parties entered into a Private Residential tenancy that commenced on 10 July 2023. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Ground 12 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to Aberdeen City Council by way of a Section 11 Notice. The Tribunal was also satisfied from the documents produced and the Applicant's oral submissions that the Respondent had failed to pay any rent since January 2024 and that she owed rent amounting to £5950.00 at the date of the CMD.
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 had to balance the needs of

the Applicant with the needs of the Respondent in arriving at a decision. On the one hand the Applicant, although a commercial landlord with a significant portfolio of properties, was suffering from issues with cash flow due to the high level of arrears and by having to fund a standard security over the property the Applicant was unable to spend as much on refurbishing its other properties as it would wish. On the other hand, the Tribunal also had to take account of the needs of the Respondent, however despite being given an opportunity to submit written representations and to attend the CMD the Respondent had chosen to do neither. The Tribunal therefore had very little information before it to consider on the Respondent's behalf when it came to the issue of reasonableness. The series of text messages between the Respondent and Mr Reid submitted with the application do indicate that in April 2024 the Respondent had been physically unwell and may also have had some mental health issues but since that time the Respondent has stopped communicating with Mr Reid. Given that no rent has been paid since January and that the Respondent has not participated in the proceedings or made any attempt to communicate with the Applicant, the Tribunal is satisfied that it is reasonable in the circumstances to grant the order sought by the Applicant.

20. After carefully considering the circumstances of both parties the Tribunal was persuaded that the needs of the Applicant in this application were such that it was reasonable to grant the order.

### **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.**

# G.Harding

Legal Member/Chair

6 November 2024  
Date