



**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**

Reference number: FTS/HPC/EV/24/1907

Order granted on 25 November 2024 in absence of the Respondent

Property: 2 Colinton Mains Crescent, Edinburgh, EH139DD

Parties:

Mactaggart & Mickel Homes Limited, a company incorporated under the Companies Acts and having their registered office at 1 Atlantic Quay, 1 Robertson Street, Glasgow G2 8JB ("the Applicant")

Ms Felicity Minns, residing at 2 Colinton Mains Crescent, Edinburgh, EH139DD ("the Respondent")

**Tribunal Members:**

**Paul Doyle (Legal Member)**  
**Ahsan Khan (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 under Ground 12 of part 3 of schedule 3 to the 2016 Act.**

**Background**

The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicant has lodged Form E with the Tribunal. The documents produced include a Tenancy Agreement, a Notice to leave, served on 27 February 2024, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

## **Case Management Discussion**

A case management discussion took place by telephone conference at 2.00pm on 25 November 2024. The Applicant was represented by Mrs L Young of DJ Alexander Lettings Lets Ltd. The Respondent was neither present nor represented. The case file reveals that the Respondent has had adequate notice of the time, date and method of joining the hearing. No application is made for adjournment. We can justly determine this application in the Respondent's absence.

## **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a private residential tenancy Agreement for the Property dated 10 August 2020.
2. The rent in terms of the Tenancy Agreement was £825 per month. On 01/08/2023 the rent increased to £849.75.
3. Since May 2022 the Respondent has not maintained prompt and regular payments of the full rental, so that rent arrears have accumulated. By 1 February 2024 the rent arrears were £3,673.25, which is more than 3 months' rent. Today, there are arrears of rental totalling £8524.96
4. On 27 February 2024 the Applicant served a notice to leave on the Respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 25 April 2024, the Applicant submitted an application to the tribunal.
5. The Applicant seeks recovery of possession of the Property in terms Ground 12 of part 3 of schedule 3 to the 2016 Act. The rental was more than 4 months in arrears at the date the application was submitted. Rental is now 10 months in arrears.
6. The Respondent remains in the property. She has chosen not to provide any of her details to the tribunal and does not explain why significant arrears of rental have accumulated.
7. The Respondent is a healthy, single, lady in her early 30s. She had a brief period of unemployment at the start of 2023 but has been employed since at least the summer of 2023. She has not engaged with the Applicant and has chosen not to explain why she has amassed significant arrears of rental. There are no known delays or failures in the payment of benefits, and the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers.
8. The Respondent does not resist the application for repossession. It is not argued that it is unreasonable to grant an order for repossession of the property.

## **Reasons for the Decision**

9. The Applicant seeks recovery of possession of the Property in terms of Ground 12 of schedule 3 to the 2016 Act. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

10. The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in terms of Ground 12 of schedule 3 to the 2016 Act is established.

11. The Respondent offers no resistance to the application. In all the circumstances, it is reasonable to grant an order for possession.

12. For these reasons, the Tribunal determined to grant an Order for possession.

## **Decision**

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 12 of part 3 of schedule 3 to the 2016 Act.

## **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.**

**Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

**25 November 2024**

**Legal Member**