

**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/24/2196**

**Re: Property at Flat 3/2, 5-7 Forbes Place, Paisley, PA1 1UT (“the Property”)**

**Parties:**

**Ms Aileen Wilson, No 10 The Cross, Dalry, KA24 5AW (“the Applicant”)**

**Mr Andrew Carslaw, Flat 3/2, 5-7 Forbes Place, Paisley, PA1 1UT (“the Respondent”)**

**Tribunal Members:**

**Valerie Bremner (Legal Member) and John Blackwood (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted in terms of Ground 12 of Schedule 3 of the Private Housing ( Tenancies) ( Scotland ) Act 2016 in that the Respondent is in rent arrears over more than 3 consecutive months and it reasonable on account of that fact to grant an eviction order.**

**Background**

1. This application for an eviction order was first lodged with the Tribunal on 13<sup>th</sup> May 2024 along with a related application for a payment order with reference FTS/HPC/CV/24/ 2200. The applications were accepted by the Tribunal on 28<sup>th</sup> May 2024 and a case management discussion was fixed for both applications on 18<sup>th</sup> October 2024 at 10am.

2. The Applicant did not attend the case management discussion but was represented by Mr MacPherson of Brodies LLP solicitors. The Respondent did not attend and the Tribunal noted that Sheriff officers had affixed both applications to the door of the property on 16<sup>th</sup> September 2024. The Tribunal was satisfied that the Respondent had

received notification of the applications and the date of the case management discussion and determined that it was appropriate to proceed in his absence.

3. The Tribunal had sight of the applications, papers apart, a tenancy agreement, a Notice to Leave with proof of postal delivery of the notice, a notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 with an e mail sending this to the local authority, a paper setting out the level of rent arrears, a pre action protocol letter and an updated statement of rent arrears as at 7<sup>th</sup> October 2024 showing accrued rent arrears of £4800.

4. The parties had entered into a private residential tenancy at the property with effect from 15<sup>th</sup> November 2022 with monthly rent payable by the Respondent on or before the 1<sup>st</sup> of each month in the sum of £350.

5. Mr Macpherson was seeking an eviction order given that he said the sum of £4800 was currently outstanding in relation to the rent arrears accrued during the tenancy. Mr MacPherson confirmed that the total rent arrears had reached £4800 as of the date of the case management discussion. He said that the rent arrears were now in excess of 13 months' rent due in terms of the tenancy agreement. No rent had been paid since October 2023. He said there had been no engagement by the Respondent with the rent arrears. There had initially been some engagement between the parties but the Respondent had stopped engaging and the Applicant had assumed he was seeking to "hold out" until evicted.

6. Mr MacPherson indicated that the Applicant had received contact from Scottish Power the week before the case management discussion indicating that the pre-payment meter at the property had not been topped up lately and it was considered possible that the Respondent had moved out. However keys had not been returned and there had been no engagement. The Applicant was out of the country and could not go and try to check the situation but it was considered he may have abandoned the property. There had been no communication and despite efforts to contact him he had not responded to a pre action protocol letter and Mr MacPherson had no information regarding his circumstances. Mr Macpherson had no information to suggest that the rent arrears had accrued in relation to the delay or failure in payment of benefits to or on behalf of the Respondent.

7. The Tribunal had sight of a Notice to Leave dated 13<sup>th</sup> March 2024 setting out the eviction ground as Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 and this notice indicated that no application would be made to the Tribunal before 13<sup>th</sup> April 2024. The Tribunal also had sight of confirmation that the Notice to leave was delivered by post to the Respondent on 14<sup>th</sup> March 2024.

8. The Tribunal had sight of a notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 in relation to this application which was sent to the local authority on 13<sup>th</sup> May 2024.

9. The Applicant's solicitor had written to the Respondent on 13<sup>th</sup> March 2024 setting out the level of rent arrears and signposting him to sources of assistance in the event that he was having trouble paying the rent.

10. The Tribunal was satisfied that it had sufficient information upon which to make a decision and that the proceedings had been fair.

## **Findings In Fact**

11. The parties entered into a private residential tenancy at the property with effect from 15<sup>th</sup> November 2022.

12. The monthly rent payable in terms of the agreement between the parties is £350 per month.

13. Rent arrears started to accrue in June 2023 and no rent has been paid since October 2023

14. Rent arrears accrued as of May 2024 have reached £2800 but as of 18<sup>th</sup> October 2024 the rent arrears accrued are in the sum of £4800.

15. The Respondent has not engaged to any extent with the Applicant over the rent arrears and is considered that he may have abandoned the property

16. The Applicant's solicitor sent a pre action protocol letter to the Respondent dated 13<sup>th</sup> March 2024 setting out sources of support if he was having trouble paying the rent but this communication received no response.

17. A Notice to Leave in proper form was posted to the Respondent and delivered to the Respondent on 14<sup>th</sup> March 2024 and this notice indicated that an application to the tribunal would not be made before 13<sup>th</sup> April 2024.

18. A notice in terms of section 11 of the Homelessness etc (Scotland ) Act 2003 was sent to the local authority on 13<sup>th</sup> May 2024.

19. The Respondent has not returned the keys to the property

20. The Applicant has no information to suggest that the rent arrears have accrued as a result of any delay or failure in payment of a benefit to the Respondent.

21. The Respondent is thought to live alone at the property and no information is known regarding his personal circumstances.

## **Reasons for Decision**

The Tribunal was satisfied that rent arrears amounting to over a year's worth of rent payments had accrued during this tenancy and efforts to engage with the Respondent had been unsuccessful. Little was known of the Respondent's circumstances but given the lack of engagement by him and the level of rent arrears accrued the tribunal considered that it is reasonable to grant an order for eviction.

## **Decision**

The Tribunal granted an eviction order in terms of Ground 12 of Schedule 3 of the Private Housing ( Tenancies) ( Scotland ) Act 2016 in that the Respondent is in rent arrears over more than 3 consecutive months and it reasonable on account of that fact to grant an eviction order.

## **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.**

Valerie Bremner

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Legal Member/Chair

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18.10.24  
Date