



**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/24/1756**

**Property: 29d Bannockburn Road, Stirling FK7 OBP (“Property”)**

**Parties:**

**Blair Pursell, 24 Borrowlea Road, Stirling FK7 7SF (“Applicant”)**

**Bryan Taylor, 29d Bannockburn Road, Stirling FK7 OBP (“Respondent”)**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Gordon Laurie (Ordinary Member)**

**Decision**

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

1. The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Tenancy Agreement which commenced on 1 June 2019; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 (“Act”) dated 7 March 2024 (“Notice to Leave”); copy email from the Applicant to the Respondent dated 7 March 2024 attaching the Notice to Leave; statement of rent arrears; and notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 16 April 2024.

**Case Management Discussion (“CMD”)**

2. A CMD took place before the Tribunal on 16 September 2024. Reference is made to the note of the CMD. The outcome of the CMD was that the Tribunal fixed an evidential hearing to take place on 28 February 2025 and issued a direction which sought a response no later than 14 days before the hearing. On 13 February 2025 the Applicant lodged a copy rent increase notice which sought to increase the rent to £630 per month with effect from 1 November 2024 and a statement of rent arrears as at February 2025.

## **Hearing**

3. A Hearing took place on 28 February 2025 at Wallace House, Stirling. Both the Applicant and the Respondent were in attendance. The Tribunal noted that at the CMD the Respondent had indicated rent had been withheld as there were outstanding repairs at the Property. The Respondent confirmed that was correct. The Tribunal noted that at the CMD the Respondent had told the Tribunal that he had lodged funds in a separate bank account to pay the rent and asked if that remained the case. The Respondent said that after the CMD he had lost his job. He said that he no longer held any funds in a separate account for the rent.
4. The Respondent told the Tribunal that he did not oppose the grant of an order for possession of the Property. He said he had been in touch with the local authority who had told him they could not help him with alternative accommodation until an order for possession of the Property was granted. He said that the damp in the Property was having an adverse impact on his health and he was experiencing difficulties with harassment from a local family and that he wanted to vacate the Property.
5. The Tribunal heard evidence from the Parties regarding the need for repairs to be carried out at the Property. Reference is made to the Decision in the conjoined civil application proceeding under reference FTS/HPC/CV/24/2267 ("Civil Application").

## **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement which commenced on 1 June 2019.
2. The Notice to Leave was served by email on 7 March 2024.
3. At the date of service of the Notice to Leave and the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 16 April 2024.

## **Findings in Fact and Law**

The Tribunal made the following findings in fact and law:

1. In the circumstances of the case, it is reasonable to grant an order for possession of the Property.

### **Reasons for the Decision**

6. The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51, the Tribunal may issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies. In the Notice to Leave the Applicant stated that they sought recovery of possession of the Property on the basis set out in ground 12 which is that the tenant has been in rent arrears for three or more consecutive months.
7. The Respondent admitted that rent arrears of £6790 were due as at February 2025. He said he had withheld rent due to the Applicant's failure to carry out necessary repairs at the Property. Reference is made to the Decision in the Civil Application dated 6 March 2025 in which the Tribunal determined that whilst the Respondent was entitled to an abatement of rent, arrears of £4722.00 remained due. In those circumstances the Tribunal determined that ground 12 had been established.
8. Having considered all of the circumstances, and in particular the Respondent's evidence to the Tribunal in which he stated that he did not oppose the grant of an order for possession, that such an order would assist his application for alternative accommodation with the local authority and that he wished to vacate the Property, the Tribunal determined that it was reasonable to issue an eviction order

### **Decision**

9. The Tribunal grants an order for possession of 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.**

**Date: 07 March 2025**