



**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/24/3504**

**Re: Property at 1A Cocklerow Bank, Edinburgh, EH22 1FP (“the Property”)**

**Parties:**

**PFPC MMR 1 LP, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)**

**Mr Kyle O'Hara, 1A Cocklerow Bank, Edinburgh, EH22 1FP (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Ahsan Khan (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted and an order for recovery and possession should be granted in favour of the Applicant.**

**Background**

1. An application was received by the Housing and Property Chamber dated 31<sup>st</sup> July 2024. The application was submitted under Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 30<sup>th</sup> January 2025 all parties were written to with the date for the Case Management Discussion (“CMD”) of 10<sup>th</sup> March 2025 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 20<sup>th</sup> February 2025.

3. On 31<sup>st</sup> January 2025, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 31<sup>st</sup> January 2025.
4. On 7<sup>th</sup> March 2025, the Applicant's solicitor emailed the Housing and Property Chamber lodging an up to date rent account for the period 17<sup>th</sup> November 2020 to 1<sup>st</sup> March 2025. It included the addition of the March rent payment as payments are paid in advance. The Tribunal allowed this late submission as it was in the interest of the Respondent to show that the arrears had reduced. The Applicant's solicitor had emailed it to the Respondent on the same day as he had to the Housing and Property Chamber.
5. This application is conjoined with FTS/HPC/CV/24/3503.

#### The Case Management Discussion

6. A CMD was held on 10<sup>th</sup> March 2025 at 2pm by teleconferencing. The Applicant was represented by Mr Kenneth Caldwell, Partner, Patten & Prentice. The Respondent was not present and was not represented. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the CMD.
7. Mr Caldwell told the Tribunal that the Respondent had been reducing the arrears over the past few months. The arrears had reduced to £846.18 in November 2024. However, the arrears then increased to £1692.36 with the addition of the rent charge for this month's rent at the beginning of March 2025 the arrears currently are £2538.54. This is, however, reduced from the amount sought in the conjoined application which was £3254.56. Mr Caldwell confirmed with the Applicant at 12.30pm on the day of the CMD that there have been no further payments since the rent account that he lodged on 7<sup>th</sup> March 2025. Mr Caldwell noted that the Applicant is content that there are payments being made but is seeking an order as the arrears have not been cleared. The Applicant is content not to enforce an order on the basis that the payments were still being received to reduce the arrears but will enforce an order if the Respondent does not continue to make payments to the rent and the arrears.
8. Mr Caldwell said that there had been no contact from the Respondent. Mr Caldwell had tried to telephone him on his mobile on the morning of the CMD but the phone number that he had did not connect. He understands that he is a self-employed heating engineer. As far as he knows he lives on his own. This was the case at the start of the tenancy. Mr Caldwell said that the Respondent has no known health conditions. The Applicant received direct payments from the Respondent. He is not believed to be in receipt of Universal Credit. In addition, it was noted by Mr Caldwell that the amounts being paid are different every month which did not indicate a consistent amount from benefits.
9. The Tribunal was satisfied that the outstanding amount for £2538.54 was due to the Applicant by the Respondent in terms of rent arrears. The Respondent did not provide a reason for the arrears and non payment for March 2025. The

Tribunal found that there were no issues of reasonableness preventing an order being granted and that it was appropriate to grant an order accordingly.

#### Findings and reason for decision

10. A Private Rented Tenancy Agreement commenced 17<sup>th</sup> November 2020.
11. The Respondent has persistently failed to pay his rent charge of £846.18 per month. The rent payments are due to be paid on first day of each month.
12. There are no known outstanding Universal Credit Housing Element issues.
13. The arrears sought total £2538.54.
14. Arrears accrued to more than three months' rent payment at the date of application and were more than one month's rent payments at the date of the CMD.
15. There are no issues of reasonableness that prevent an order from being granted.

#### Decision

16. The Tribunal found that ground 12 has been established and granted an order in favour of the Applicant.

#### **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.**

Gabrielle Miller

**10<sup>th</sup> March 2025**

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**Legal Member/Chair**

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**Date**