



**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/24/3116

Application dismissed on 7 April 2025 in absence of the Respondent

Property: 54 Constantine Way, Motherwell, ML1 3US

Parties:

Mrs Pauline Seal, residing at 2 Knoll Close, Burntwood, Staffordshire, WS7 4TD ("the Applicant")

Miss Leigh-Ann Fagan, residing at 54 Constantine Way, Motherwell, ML1 3US ("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") dismisses the application.**

**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 had lodged with the Tribunal Form E dated 8 July 2024. The documents produced were a Tenancy Agreement, a Notice to leave, served on 1 June 2023, together with a notice under s.11 of the Homelessness (Scotland) Act 2003 dated 04 September 2023. A copy title sheet 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 7 April 2025. The Applicant was represented by Mr S Seal. 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 18 May 2018.
2. The rent in terms of the Tenancy Agreement was £700 per month.
3. The Respondent has been in arrears of rental since November 2021. At the date the application was submitted there were arrears of rent totalling £12,925.00, which is more than 3 months' rent.
4. On 01 June 2023 the Applicant served a notice to leave on the Respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. The notice to leave specified that the earliest date an application could be submitted to the tribunal was 3 July 2023. On 8 July 2024, the Applicant submitted this application to the tribunal.
5. The Applicant seeks recovery of possession of the Property in terms of Ground 12 of part 3 of schedule 3 to the 2016 Act.

## **Reasons for the Decision**

6. s. 55(1) of the Private Housing (Tenancies) (Scotland) Act 2016 says

A landlord may not make an application to the First-tier Tribunal for an eviction order against a tenant using a copy of a notice to leave more than six months after the day on which the relevant period in relation to that notice expired.

7. The notice to leave lapsed on 2 January 2024. The application was submitted more than six months after the day on which the relevant period in relation to that notice expired.
8. s. 55(1) of the Private Housing (Tenancies) (Scotland) Act 2016 tells us that this application is not supported by a valid notice to leave. We must therefore dismiss the application.

## **Decision**

The application is dismissed.

## **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.**

**Legal Member**

**Date: 7 April 2025**

**Paul Doyle**