



**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/24/3594**

**Re: Property at 23 Fiddison Place, Prestwick, KA9 2TJ (“the Property”)**

**Parties:**

**Mr Steven Wood, 9736 NE 119th Way, Apt E512, Kirkland, Washington WA98034-7071, United States (“the Applicant”)**

**Miss Amy Shona Smith, 23 Fiddison Place, Prestwick, KA9 2TJ (“the Respondent”)**

**Tribunal Members:**

**Alison Kelly (Legal Member) and Gerard Darroch (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction should be granted.**

**Background**

1. On 5<sup>th</sup> August 2024 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
  - i. Copy Private Residential Tenancy Agreement showing a commencement date of 10<sup>th</sup> July 2022 and a rent of £625 per month;
  - ii. Copy Notice to Leave dated 5<sup>th</sup> June 2024;
  - iii. Copy email dated 5<sup>th</sup> June 2024 to the Respondent serving the Notice to Leave;

- iv. Section 11 Notice and proof of service;
  - v. Rent Increase Notice raising the rent to £675 per month from 10<sup>th</sup> July 2024;
  - vi. Copy Rent Statement showing arrears of £5050 as at 10<sup>th</sup> July 2024;
  - vii. Pre Action Requirements emails
3. The Application was served on the Respondent by Sheriff Officers on 17<sup>th</sup> February 2025.

## **Case Management Discussion**

- 4. The Case Management Discussion ("CMD") took place by teleconference. The Applicant was represented by Mr Deane of Bannatyne, Kirkwood & France, Solicitors. There was no attendance by the Respondent or any representative on her behalf.
- 5. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules. The Chairperson explained that the Applicant needed to provide sufficient evidence to establish the ground of eviction, and that it was reasonable for the Tribunal to grant the order.
- 6. Mr Deane sought an order for eviction in terms of ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016. He said that the rent had been in arrears for in excess of three months and that the current rent arrears were £10450. There had been no payment by the Respondent since 10<sup>th</sup> November 2023, apart from one rent payment made in February 2025.
- 7. The Tribunal were satisfied that the ground had been established, and asked Mr Deane to address the Tribunal on reasonableness. He said that the Applicant know very little about the Respondent. She has made no contact with him, apart from when she made the rent payment in February 2025 and she indicated that she was pregnant. and has never provided any reason for being in arrears. There are no known health conditions, and it is not known if the Respondent has applied for benefits. It is not known if she had contacted the local authority regarding re-housing.

## **Findings in Fact**

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property commencing 10<sup>th</sup> July 2022 and a rent of £625 per month
- b. A Notice To Leave, dated 5th June 2024, was served timeously and correctly;
- c. A section 11 notice was served on the local authority;
- d. The Application was served on the Respondent by Sheriff Officer on 17<sup>th</sup> February 2024;
- e. A Rent Increase Notice was served raising the rent to £675 per month from 10<sup>th</sup> July 2024;
- f. The Applicant complied with the Pre Action Requirements;

- g. The Application was served on the Respondent by Sheriff Officers on 1<sup>7th</sup> February 2025.
- h. There is no known claim for benefits;
- i. The current arrears are £10450;
- j. The Respondent has been in rent arrears for three or more consecutive months.

## Reasons for Decision

8. Ground 12 states as follows:

*12(1)It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.*

*(2). . . . .*

*(3)The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—*

*(a)for three or more consecutive months the tenant has been in arrears of rent, and*

*(b)the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.*

*(4)In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider—*

*(a) whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and*

*(b)the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.*

*(5)For the purposes of this paragraph—*

*(a)references to a relevant benefit are to—*

*(i)a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971),*

*(ii)a payment on account awarded under regulation 91 of those Regulations,*

*(iii)universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,*

*(iv)sums payable by virtue of section 73 of the Education (Scotland) Act 1980,*

*(b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.*

*(6) Regulations under sub-paragraph (4)(b) may make provision about—*

*(a) information which should be provided by a landlord to a tenant (including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy),*

*(b) steps which should be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,*

*(c) such other matters as the Scottish Ministers consider appropriate.*

9. The Tribunal now has to decide if it is reasonable to grant the eviction order.

10. The Tribunal were of the view in this case that the Applicant had established Ground 12 in relation to the rent arrears. The Tribunal therefore had to exercise its discretion in applying the facts to decide if it was reasonable to grant the order. The Tribunal considered that the level of the arrears, and the lack of contact made by the respondent to the Applicant and to the tribunal made it reasonable to grant the 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.**

# A Kelly

**Alison Kelly**

**24 March 2025**

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**Legal Member/Chair**

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**Date**

