

**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/24/4117

Re: Property at 14 McKay Court, Leven, KY8 4FU (“the Property”)

Parties:

**Kingdom Initiatives Limited, Saltire Centre, Pentland Court, Glenrothes, KY6
2DA (“the Applicant”)**

**Mr Jacob Allan, Ms Rachel Gray, 14 McKay Court, Leven, KY8 4FU; 14 McKay
Court, Leven, KY8 4FU (“the Respondents”)**

Tribunal Members:

Graham Harding (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondents)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicants were entitled to an order for the
eviction of the Respondents from the property.**

Background

1. By application dated 5 September 2024 the Applicant’s representatives, T C Young, Solicitors, Glasgow, applied to the Tribunal for an order for the eviction of the Respondents from the property in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant’s representatives submitted a copy of a tenancy agreement, Notice to Leave with execution of service, Section 11 Notice, pre-action protocol letters and other documents in support of the application.
2. By Notice of Acceptance dated 30 September 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondents by Sheriff Officers on 26 February 2025.

The Case Management Discussion

4. A CMD was held by teleconference on 2 April 2025. The Applicant was represented by Miss Simone Callaghan from T C Young Solicitors, Glasgow. The Respondents did not attend nor were they represented. The Tribunal being satisfied that proper intimation of the proceedings had been given to the Respondents determined to proceed in their absence.
5. The Tribunal noted from the documents submitted with the application that the parties commenced a Private Residential tenancy of the property on 29 September 2022 at a rent of 435.70 per month that had then increased to £448.77 per month and then on 1 August 2024 to £484.67 per month. Miss Callaghan advised the Tribunal that the last rent payment had been in November 2024 when £700.00 had been paid and that the amount of rent currently due by the Respondents had increased to £9856.63.
6. Miss Callaghan advised the Tribunal that the Respondents had been served with a Notice to Leave under Ground 12 of Schedule 3 of the 2016 Act by Sheriff Officers on 27 February 2024 and that calculating 28 days from that date with the earliest date an application being made to the Tribunal being 27 March 2024, the Notice to Leave had been validly served. The Tribunal noted that a Section 11 Notice had been sent to Fife Council by email on 5 September 2024 and that a pre-action protocol letter had been sent to the Respondents on 24 May 2024.
7. Miss Callaghan advised the Tribunal that the Applicants had spoken to the Respondent Ms Gray in October 2024 and at that time she had explained that she had been having issues with her bank not making payments even although she was in funds. Miss Callaghan went on to say that Ms Gray had said she was opening a new bank account and would start paying the monthly rent plus an additional £700.00 per month to clear the arrears from November 2024 but apart from a single payment of £700.00 in November 2024 no further payments had been made. Miss Callaghan also said that the Respondent Ms Gray had been offered assistance from the applicant with money advice but had refused help. Miss Callaghan went on to say that the Applicant had been unable to engage with the Respondent Mr Allan.
8. In response to a query about the Applicants' circumstances, Miss Callaghan said that Mr Allan was aged 23 and Ms Gray aged 22. There were no children living at the property. Miss Callaghan was not aware of the Respondents having any health issues and believed Ms Gray was in employment with the NHS and was also attending college. Miss Callaghan also said that she was unaware of there being any benefit

issues and was unaware of the Respondents contacting the local authority. Miss Callaghan went on to say that the Applicant was a wholly owned subsidiary of Kingdom Housing Association and the significant outstanding balance was impacting on the Applicant's finances and it could not allow further arrears to accumulate. Miss Callaghan submitted it was reasonable to grant an order for the eviction of the Respondents from the property.

Findings in Fact

9. The Respondents commenced a Private Residential Tenancy of the property on 29 September 2022.
10. A Notice to Leave under Ground 12 of Schedule 3 of the 2016 Act was served on the Respondent on 27 February 2024.
11. A Section 11 Notice was sent to Fife Council on 5 September 2024.
12. At that time the Respondents owed rent amounting to £4435.42.
13. At the date of the CMD the Respondents owed rent amounting to £9856.63.
14. The Applicant is a wholly owned subsidiary of Kingdom Housing Association.
15. The loss of rent has an adverse impact on the Applicant's finances.
16. The Respondents live together in the property.
17. There are no children living in the property.
18. The Respondent Ms Gray is believed to be in employment and also attending college.
19. A payment plan agreed to in October 2024 by Ms Gray was not adhered to by her.
20. The Respondent Mr Allan has not engaged with the Applicant.

Reasons for Decision

21. The Tribunal was satisfied from the documents submitted and the oral submissions that the parties entered into a Private Residential tenancy that commenced on 29 September 2022. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Ground 12 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to Fife Council by

way of a Section 11 Notice and that an appropriate pre-action protocol letter had been sent to the Respondents.

22. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondent from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal had to balance the needs of the Applicant with the needs of the Respondents in arriving at a decision. In reaching its decision the Tribunal took account of the fact that despite being given an opportunity to submit written representations to the Tribunal and to attend the CMD the Respondents had chosen to do neither. Furthermore, the level of rent arrears was very substantial being the equivalent of 20 months 'rent. In the absence of any explanation for rent not being paid and given the adverse effect this had on the Applicant the Tribunal was satisfied that it was reasonable in the circumstances to grant an order for eviction of the Respondents from the property.

Decision

23. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing, finds the Applicant entitled to an order for the eviction of the Respondents from 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.

Graham Harding

**Graham Harding
Legal Member/Chair**

**2 April 2025
Date**

