



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Scotland) Act 2016 ("The Act")

Chamber Ref: FTS/HPC/EV/24/3584

Re: Property at 23 Jones Green, Livingston, EH54 8QB ("the Property")

Parties:

Mr Craig Davidson, 16 Northcut Rise, Parmenlia, Perth, Western Australia 6167, Australia ("the Applicant")

Mr Derek Hare, 23 Jones Green, Livingston, EH54 8QB ("the Respondent")

Tribunal Members:

Andrew McLaughlin (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") granted the Application and made an Eviction Order.

Background

[2] The Applicant seeks an Eviction Order under ground 12 of Schedule 3 of the Act. The Application is accompanied by a copy of the relevant tenancy agreement, the notice to leave with proof of service, the relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 and a rent statement. There is also evidence of compliance with *The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020*.

[3] The Respondent had engaged with the process and appeared at the initial Case Management Discussion and indicated a wish to defend the Application. The Respondent had laterally appointed a solicitor from the Civil Legal Assistance office

who had sought to postpone the scheduled Hearing and seek an extension of a previously made deadline to comply with a Direction. The Tribunal had noted that the Respondent appeared to have first contacted the Civil Legal Assistance Office only on 31 March 2025 which was very late in the day. The Respondent had previously made reference to seeking legal representation previously. The Tribunal refused the postponement request on the basis that it would wish these matters to be discussed as preliminary matters at the Hearing. The Respondent's representative then withdrew from acting.

The Hearing

[4] The Application called for a Hearing by conference call at 10 am on 16 May 2025. The Applicant was personally present together with his solicitor, Mr Thomas Duncan. The Respondent was neither present nor represented. The details of the Hearing had been intimated to the Respondent by email dated 1 April 2025. There was no reason to explain the Respondent's absence. The Tribunal therefore decided to proceed in the Respondent's absence.

[5] Mr Duncan explained that the arrears were now £21,320.00 and that no rent whatsoever had been paid since October 2023.

[6] Having heard from parties and having considered the whole facts and circumstances of the case, the Tribunal made the following findings in fact.

Findings in Fact

- 1) *The Applicant let the Property to the Respondent laterally by virtue of a Private Residential Tenancy within the meaning of the Act.*
- 2) *The Respondent has stopped paying rent and has accrued rent arrears in the sum of £21,320.00. There is nothing to suggest that these arrears will do anything other than increase.*
- 3) *The Applicant competently served a notice to leave under ground 12 of Schedule 3 of the Act. Ground 12 was established at the date of service of the notice to leave and remains established as at today's date.*
- 4) *The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003 and The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.*

Reasons for Decision

[7] Having made the above findings in fact, the Tribunal considered that the ground set out in the notice to leave was established. The Tribunal also considered that it was reasonable to make an Eviction Order.

[8] The Tribunal therefore granted the Application and made an Eviction Order. The Tribunal had no reason not to accept that the rent arrears were at the sum stated. The Tribunal could see no legitimate defence put forward that might credibly provide a reason as to why 100 per cent of these sums might be subject of a defence of rent abatement. The Tribunal also noted that the communication from the Respondent's previous agent suggested that rent payments might now be made by the Respondent. This appeared never to have been taken forward. The Tribunal saw no reason not to deal with matters and grant the Application.

Right of Appeal

[9] 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.

Andrew McLaughlin
Legal Member/Chair

— **16 May 2025**
Date