



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/24/4137

Property : 7 McCardle Way, Newmains ML2 9BW ("Property")

Parties:

Ian Jenkins and Christine Jenkins, 29 Covanburn Avenue, Hamilton ML3 7PX ("Applicant")

Jamie Dalton, 7 McCardle Way, Newmains ML2 9BW ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined to grant an order for possession of the Property.

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Tenancy Agreement which commenced on 1 May 2020 ("Tenancy Agreement"); Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 20 June 2024 ("Notice to Leave") with covering email dated 20 June 2024; statement of rent arrears; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering letter dated 5 September 2024. The Application was served on the Respondent by sheriff officer on 11 March 2025.

Case Management Discussion ("CMD")

A CMD took place before the Tribunal on 16 May 2025 by teleconference. The Applicant was in attendance. There was no appearance by the Respondent. Mr Jenkins told the Tribunal that there had been no recent contact with the Respondent. He said the Respondent lived in the Property alone and had no health issues of which he was aware. He said he understood that the Respondent was in the army but that came to an end. He understood the Respondent was unemployed for a period and

then may have gone back into the army but Mr Jenkins did not know what the Respondent did in the army. Mr Jenkins said he had tried to enter into a payment plan with the Respondent without success.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement which commenced on 1 May 2020.
2. The Notice to Leave was served by email on 20 June 2024.
3. At the date of service of the Notice to Leave and the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 16 September 2024.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51 of the Act, the First-tier Tribunal may issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies. In the Notice to Leave the Applicant stated that they sought recovery of possession of the Property on the basis set out in ground 12 which is that the tenant has been in rent arrears for three or more consecutive months. The Tribunal considered the statement of rent arrears provided and determined that ground 12 had been established.

Having considered all of the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order.

Decision

The Tribunal grants an order for possession of 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.

**Joan Devine
Legal Member**

Date : 16 May 2025