

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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/24/3049**

**Property : 2/R, 9 Arklay Street, Dundee DD3 7PG ("Property")**

**Parties:**

**David Dick, 3/1, 20 Charing Cross Mansions, 28 St George's Road, Glasgow G3 6UJ ("Applicant")**

**Gilson Gray LLP, 29 Rutland Square, Edinburgh EH1 2BW ("Applicant's Representative")**

**Benn Brown, 2/R, 9 Arklay Street, Dundee DD3 7PG ("Respondent")**

**Dundee Law Centre, 163 Albert Street, Dundee DD4 6PX ("Respondent's Representative")**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Ahsan Khan (Ordinary Member)**

**Decision**

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

**Background**

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Tenancy Agreement which commenced on 16 December 2022; Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 29 February 2024 ("Notice to Leave"); sheriff officer execution of service of the Notice to Leave on 4 March 2024; agency agreement with Slater Hogg & Howison dated 27 February 2024 confirming the instruction to sell the Property and notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 3 July 2024.

A Case Management Discussion ("CMD") was fixed for 3 April 2025. The Application was served on the Respondent by sheriff officer on 20 February 2025. On 19 February

2025 and 19 March 2025 the Applicant's Representative lodged a written submission setting out the Applicant's personal circumstances and a submission as to why it would be reasonable to grant an order for possession of the Property. On 6 March 2025 the Respondent's Representative lodged a written submission in which he asked for any eviction order granted to be delayed until 31 August 2025. On 2 April 2025 the Applicant's Representative lodged a statement of rent arrears which indicated arrears of £4,616.39.

### **Case Management Discussion**

A CMD took place before the Tribunal on 3 April 2025 by teleconference. David Gray of the Applicant's Representative was in attendance as was the Applicant. The Respondent was in attendance as was Kenneth Marshall of the Respondent's Representative.

Mr Marshall told the Tribunal that Mr Brown was studying at the University of the West of Scotland in Ayr and was on placement in a school in Dundee. He said that Mr Brown lives in the Property alone and his only income is a student loan. He said that Mr Brown did receive universal credit for a period at the rate of £300 per month. He said that the rent fell into arrears when Mr Brown had a gap in payment of benefits and a problem with his student loan. He said that Mr Brown had financial difficulties and had 6 sources of critical debt. He said that the rent had been paid in March 2025 and would be paid going forward as the issues with Mr Brown's student loan had been resolved. He said that Universal Credit were claiming repayment of £3000 from Mr Brown on the basis he should not have received universal credit. He said that there was no prospect of any back-dated student loan being used to pay the rent arrears. He stated that the guarantor is a friend who cannot contribute to the rent arrears and that no familial support is available. He said that Mr Brown is on a placement that ends in July 2025 and that Mr Brown asks the Tribunal to delay the enforcement of any eviction order until 31 August 2025. He said that thereafter Mr Brown should obtain a job as a teacher which could be in any location. He said that Mr Brown may find it difficult to obtain alternative accommodation due to his rent arrears. Mr Brown told the Tribunal that he had been homeless in the past and wished to avoid that happening again. He said he had spoken to Student Welfare who were looking at emergency funding for him but would not be able to provide emergency accommodation close to the placement in Dundee.

The Tribunal noted the detailed written submissions lodged on behalf of the Applicant and asked Mr Gray if he had anything to add. He said that the current situation had a significant impact on the Applicant and that the Applicant had been more than accommodating to Mr Brown's situation. He also highlighted the contract breach due to non-payment of rent. He asked for an eviction order to be granted without an extension to the standard timescale.

The Tribunal noted that there were no factual matters in dispute and, with both Mr Gray and Mr Marshall confirming their agreement, proceeded to make a decision.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property which commenced on 16 December 2022.
2. A Notice to Leave was served on the Respondent by sheriff officer on 4 March 2024. It stated that an application for an eviction order would not be submitted to the Tribunal before 28 May 2024.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 3 July 2024.
4. The Applicant holds title to the Property and is entitled to sell the Property.
5. The Applicant intends to sell the Property or at least put it up for sale within 3 months of the Respondent ceasing to occupy it.

### **Reasons for the Decision**

In terms of section 51 of the Act, the Tribunal is to 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 Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 1 which is that the landlord intends to sell the Property. The evidence lodged with the application of intention to sell was an agency agreement with Slater Hogg & Howison dated 27 February 2024 confirming the instruction to sell the Property. The Tribunal considered the evidence provided and determined that the ground for eviction had been established.

The Tribunal considered the question of reasonableness as set out in the written representations lodged and the oral submissions from Mr Marshall and Mr Gray. Mr Marshall's submission was that Mr Brown did not object to an order being granted but he wished enforcement to be delayed until 31 August 2025. His submission was that the rent would be paid going forward and that it would be difficult for Mr Brown to find alternative accommodation as a landlord in the private rented sector may ask for a reference. In the written submission lodged by and on behalf of the Applicant the Tribunal had been told that the Applicant was pursuing his career as a doctor in Glasgow and he wished to sell the Property in order to buy a property in Glasgow. The Tribunal had been told that the Applicant had wanted to market the Property in 2024

in time to attract interest from medics taking up new roles in August 2024 but that opportunity had been lost. He was keen to take advantage of that “window” in 2025. The Tribunal had also been told that the Applicant no longer wished to be a landlord and that dealing with rent arrears and having to apply to the Tribunal for a possession order had caused the Applicant significant stress.

The Tribunal determined that it was reasonable to grant an order for possession of the Property. The Tribunal declined to delay enforcement of the order. In making that decision the Tribunal attached weight to the length of time that had passed since the Notice to Leave was served in February 2024. The Respondent had adequate notice of the possibility of an order for possession being granted and yet it was only in recent weeks that he had sought advice from his Representative. The Tribunal also attached weight to the substantial rent arrears and to the failure on the part of the Respondent to pay any rent at all in the period July 2024 to March 2025. The Tribunal also took into account the impact of the situation on the Applicant both professionally and personally as set out in the written submissions lodged.

### **Decision**

The Tribunal determined to grant 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 : 3 April 2025**