



**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 (“the Act”)**

**Chamber Ref: FTS/HPC/EV/24/4699**

**Re: Property at 10A Market Street, Brechin, Angus, DD9 6BA (“the Property”)**

**Parties:**

**Discovery Estates No 3 Ltd, 165 Brook Street, Broughty Ferry, Dundee, DD5 1DJ (“the Applicant”)**

**Ms Zoe Archibald, 10A Market Street, Brechin, Angus, DD9 6BA (“the Respondent”)**

**Tribunal Members:**

**Jim Bauld (Legal Member) and Mary Lyden (Ordinary Member)**

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

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

**Background**

1. By application dated 10 October 21024 the applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and in terms of rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. On 17 December 2024 the application was accepted by the tribunal and referred for determination by the tribunal.

3. A Case Management Discussion (CMD) was set to take place on 21 May 2025 and appropriate intimation of that hearing was given to both parties. Service on the respondent was effected by sheriff officers on 11 March 2025.
4. The application was heard together with a conjoined application involving the same parties for a payment order under tribunal reference FTS/HPC/CV/24/4700

### **The Case Management Discussion**

5. The Case Management Discussion (CMD) took place on 5 May 2023 via telephone case conference. The applicant was represented by their solicitor, Mr Jay Lawson , MML Law, Dundee.. The Respondent did not take part.
6. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters.
7. The tribunal asked various questions of the applicant's solicitor with regard to the application.
8. He confirmed that he wished the order for eviction to be made.

### **Findings in Fact**

9. The Applicant is the registered owner of the property.
10. The Applicant and the Respondent, as respectively the landlord and tenant entered into a tenancy of the property which commenced on 20 November 2023.
11. The tenancy was a private residential tenancy in terms of the Act.
12. The agreed monthly rental was £600.
13. On 2 September 2024 the applicant served upon the tenant a notice to leave as required by the Act. Service was effected by email and Notice became effective on 7 October 2024
14. The notice informed the tenant that the landlord wished to seek recovery of possession using the provisions of the Act.
15. The notice was correctly drafted and gave appropriate periods of notice as required by law.

16. The notice set out one of the grounds contained within schedule 3 of the Act, namely ground 12 (that the tenant had been in arrears of rent for three or more consecutive months)
17. Arrears had started to accrue in November 2023 and at the date of the lodging of the application arrears amounted to £3,800
18. The amount of arrears at the date of the CMD was £8,600 .
19. Appropriate accounting had been provided in respect of the outstanding rent with the application to the tribunal.
20. The basis for the order for possession on ground 12 was thus established.

### **Reasons for Decision**

21. The order for possession sought by the landlord was based on a ground specified in the Act and properly narrated in the notice served upon the tenant. The tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the landlord was entitled to seek recovery of possession based upon that ground.
22. The tribunal accepted the evidence presented on behalf of the landlord with regard to the rent arrears. A rent statement was produced which set out the history of the arrears. Since the commencement of the tenancy in November 2023, the respondent has failed to pay the rent as it fell due and significant arrears have accrued.
23. The tribunal was satisfied that the tenant had been in arrears for a period far in excess of three consecutive months and the arrears owed were significant. The ground for eviction based on rent arrears was accordingly established.
24. Since 7 April 2020, in terms of changes made by the Coronavirus (Scotland) Act 2020 an eviction order on ground 12 can only be granted if the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
25. In determining whether it is reasonable to grant the order, the tribunal is required to balance all the evidence which has been presented and to weigh the various factors which apply to the parties.
26. In this case the tribunal finds that it is reasonable to grant the order.
27. The level of arrears is extremely high, and it is unlikely that the arrears will ever be repaid. There is no suggestion that the tenant is making any attempt to meet the rent. The respondent has have provided no explanation for the failure to fully meet the rental obligations. The arrears as the date of the CMD are a

significant sum and there appears to be no likelihood of them being repaid by the respondent. The respondent has not lodged no written representations with the tribunal despite being offered the opportunity to do so. In all the circumstances the tribunal decided that it was reasonable to grant the order sought.

28. The tribunal decided to exercise the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

### **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.**

# **Jim Bauld**

**Legal Member/Chair**

**Date: 29 May 2025**