

Housing and Property Chamber
First-tier Tribunal for Scotland



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/24/5581

Property : 99 Stonylee Road, Cumbernauld G67 2LR ("Property")

Parties:

Salah Alkirwi, Earls Homes, 47 Main Street, Cumbernauld G67 2RT ("Applicant")

Karen Cross and Alex Fitzpatrick, 99 Stonylee Road, Cumbernauld G67 2LR ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Sandra Brydon (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 15 June 2018 ("Tenancy Agreement"); Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 17 July 2024 ("Notice to Leave") with sheriff officer certificate of service on each Respondent on 1 July 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 4 December 2024. The Application was served on the Respondent by sheriff officer on 9 April 2025.

Case Management Discussion ("CMD")

A CMD took place before the Tribunal on 18 June 2025 by teleconference. The Applicant was in attendance. The Respondent was not in attendance.

The Applicant told the Tribunal that he had put payment plans in place with the Respondent in the past but they never worked out. He said the Respondent would pay additional sums towards the arrears for a few months and then not pay anything. He said that he understood that both Respondents were employed. He believed that Mr

Fitzpatrick works in a supermarket and Ms Cross may work for the NHS. He said he had met with Ms Cross and explained to her that the Applicant needed the rent to be paid to meet the mortgage on the property and other costs.

The Applicant told the Tribunal that there are 2 or maybe 3 children living in the Property which is a 4 bedroom house. He said the oldest is a teenager. He said that he was unaware of any health or disability issues. The Applicant said that the Property had been let since it was purchased and his intention would be to re-let if an order for eviction was granted.

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 15 June 2018.
2. The Notice to Leave was served by sheriff officer on 17 July 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 4 December 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

**Joan Devine
Legal Member**

Date : 18 June 2025