

**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18 of the Housing (Scotland) Act 1988**

**Chamber Ref: FTS/HPC/EV/24/4362**

**Re: Property at 42 Beech Crescent, Hilton Garden City, Dunfermline, KY11 2ZP (“the Property”)**

**Parties:**

**Kingdom Initiatives Limited, Saltire Centre, Pentland Centre, Glenrothes, KY6 2DA (“the Applicant”)**

**Mrs Alexander Newport, 42 Beech Crescent, Hilton Garden City, Dunfermline, KY11 2ZP (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Ann Moore (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.**

**Background**

1. An application was received by the Housing and Property Chamber dated 16<sup>th</sup> September 2024. The application was submitted under Rule 65 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on grounds 11 and 12 of the Housing (Scotland)(Act) 1988 (“the Act”).
2. On 15<sup>th</sup> March 2025, all parties were written to with the date for the Case Management Discussion (“CMD”) of 22<sup>nd</sup> May 2025 at 10am at teleconference. The letter also requested all written representations be submitted by 5<sup>th</sup> April 2025.

3. On 2<sup>nd</sup> May 2025, the Applicant's solicitor emailed the Housing and Property Chamber requested the amount sought be increased to £13851.00. This was notified to the Respondent by the Applicant.
4. On 18<sup>th</sup> March 2025, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 18<sup>th</sup> March.
5. The case was conjoined with case FTS/HPC/CV/24/4361

#### The Case Management Discussion

6. A CMD was held on 22<sup>nd</sup> May 2025 at 10am at teleconference. The Applicant was not present but was represented by Miss Simone Callaghan, Paralegal, TC Young. The Respondent was present and represented himself.
7. Miss Callaghan confirmed that the Applicant's position remained as it was in the papers.
8. The Respondent said that he was not in a position to refuse an order being granted. When he moved into the Property he lived there with his children in the Property but they have now left. It is a four bedroom property and he now lives in it on his own. It is too big for him and he cannot afford the rent now. The Respondent found it difficult to make the full payment of this rent each month when he returned to work and his benefits stopped. He is working but the cost of the rent and the council tax are high and not affordable to him with his wage. The Respondent is not eligible for Universal Credit Housing Element due to his level of wages. However, he has taken money advice and does not have enough money each month. He has requested that the Applicant rehouse him in a smaller property but this has not been done. He would be in a better financial position if he were in a smaller property which was in a lower Council Tax banding. He has been trying to pay half the rent each month which is what he can afford to pay. He does not dispute the amount of the arrears. He intends to address the arrears when he has a lower rent charge and a lower Council Tax charge. He has been told that he will not be rehoused until an order for eviction has been granted against him. He cannot address the arrears until that point as he does not have any disposable income. He has been working with Frontline Scotland who are a homeless service. He has been asked by them to continue the order but he was not clear what was to be continued or why. The Tribunal queried if it was to supersede the Order. He did think that was it. Ms Callaghan said that she had no instructions on that point but that there was a duty to rehouse by his local authority delaying the Order would only delay that process further and cause further arrears to accrue.
9. The Respondent said that he did not want this to come to this point but it has and he needs to be out of this property and into a smaller property. That can only seem to happen through the local authority once an eviction order has been granted.

10. The Tribunal was satisfied that it was reasonable to grant the Order for eviction in particular because the Respondent was not objecting to it being granted in light of his financial position. The Tribunal noted that it did not feel it was reasonable to supersede the Order as it was not clear that it would gain any benefit to either party. The Tribunal also noted that the Respondent will need to speak to Frontline Scotland to up date them on the Order being granted. He will also need to speak to his local authority to advise them.

#### Findings and reason for decision

11. The parties entered into a Short Assured Tenancy on 26<sup>th</sup> July 2015 until 25<sup>th</sup> January 2016.
12. The Respondent persistently failed to pay his rent charge of £802.50 per month. This is the current rent charge as it has been increased throughout the period of the tenancy. The rent payments are due to be paid on first day of each month.
13. The Respondent did not oppose an order being granted as he can no longer afford to live in the Property.
14. The arrears sought in the conjoined application totalled £13851. The Tribunal was satisfied that the Respondent had been aware that a higher amount was being sought in the application.

#### Decision

15. The Tribunal found that grounds 11 and 12 have been established and the granted an order in favour of the Applicant. The Applicant is entitled to for an Order of for recovery of possession.

#### **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.**



22<sup>nd</sup> May 2025

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Legal Member/Chair

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Date

