



**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/24/5640**

**Property : 4 Merchant House, Castle Street, Inverness IV2 3DU ("Property")**

**Parties:**

**Highland Housing Alliance, Fairways, Castle Heather, Inverness IV2 6AA ("Applicant")**

**TC Young, Solicitors, 7 West George Street, Glasgow G2 1BA ("Applicant's Representative")**

**Wayne Mitchell, 4 Merchant House, Castle Street, Inverness IV2 3DU ("Respondent")**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Ann Moore (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 23 February 2023 ("Tenancy Agreement"); Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 9 August 2024 ("Notice to Leave") with covering email dated 9 August 2024; statement of rent arrears; correspondence indicating compliance with the pre-action requirements; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering letter dated 3 December 2024 and correspondence evidencing compliance with the pre-action requirements. The Application was served on the Respondent by sheriff officer on 3 April 2025 .

### **Case Management Discussion (“CMD”)**

A CMD took place before the Tribunal on 26 June 2025 by teleconference. Kelly Campbell and Gail Matheson of the Applicant were in attendance. The Applicant was represented by Nicola Brechany of the Applicant's Representative. The Respondent was also in attendance.

The Respondent told the Tribunal that he did not oppose the application. He said that he lives in the Property alone. He said that he lost his job due to health issues in March 2024. He said that he suffered from migraines and headaches but was now on medication which was assisting. He said he was out of work for a few months and then was employed on a zero hours contract but he was not getting any hours. He said the arrears built up because he lost his job. The Respondent told the Tribunal that he got another job in September 2024 which is a minimum of 30 hours although he is working, on average, 37 hours each week. He said he had been unable to pay anything towards the arrears as he had other bills to pay. He said he had been in touch with the local authority about alternative accommodation but they had said they could not help until an eviction order was granted. The Tribunal asked the Respondent if he had sought advice about benefits to assist with housing costs. He said that he had but was not entitled to benefits.

Ms Brechany told the Tribunal that the Applicant sought an order for eviction. She said that ground 12 had been established. She said it was reasonable to grant an order for eviction due to the level of arrears which are currently £9816.40. She said the arrears had accumulated since February 2024. She said the Applicant had made numerous attempts to communicate with the Respondent about the arrears and to put a payment plan in place without success. She noted that the Respondent had been in employment for some time but had paid nothing towards the arrears. She noted that the Respondent had made reference to paying other bills which indicated that paying the rent due was not a priority for the Respondent. She said that the Property is a first floor one bedroom flat and that once vacant, the Applicant would expect 20-40 notes of interest. Ms Brechany told the Tribunal that the Applicant is a non-profit organisation which provides mid-market properties. She said that the arrears due by the Respondent were the highest the Applicant had in their portfolio.

### **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 23 February 2023.

2. The Notice to Leave was served by email on 9 August 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.

### **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. The Tribunal had seen evidence of compliance with the pre-action requirements.

Having considered all of the circumstances, and in the absence of opposition 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.**

# J Devine

**Joan Devine  
Legal Member**

**Date : 26 June 2025**