



**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/24/4765**

**Re: Property at 43 Hadfast Road, Cousland, EH22 2NZ (“the Property”)**

**Parties:**

**Mr Gordon Brown, 21 Hadfast Road, Cousland, EH22 2NZ (“the Applicant”)**

**Ms Stephanie Start, 43 Hadfast Road, Cousland, EH22 2NZ (“the Respondent”)**

**Tribunal Members:**

**Rory Cowan (Legal Member) and Tony Cain (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Eviction Order under ground 11 of schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 should be granted, but that execution of same should be delayed for a period of 2 months from the date of the said order.**

- Background

By application dated 14 October 2024 (the Application), the Applicant sought an eviction order relative to the Property in terms of section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 (2016 Act). With the Application, the Applicant, lodged various supporting documents which include the following:

- 1) Lease which commenced on 22 May 2023;
- 2) Copy Notice to Leave along with covering email sending same;
- 3) Section 11 Notice;
- 4) Copy photographs of the Property and its condition;
- 5) Property inspection report dated 15 January 2025; and
- 6) Pre-action correspondence.

Following acceptance of the Application, a Case Management Discussion (CMD) was fixed for 9 July 2025 to be heard by way of conference call.

- Case Management Discussion

At that CMD a Chris Duffy, of CP Property appeared and represented the Applicant. The Respondent also appeared and represented herself. The Respondent had a supporter present with her, her sister Mrs Tait, but she did not take part in proceedings.

Mr Duffy confirmed that the Applicant was still seeking an Eviction Order. He explained the order was sought in terms of Ground 11 of Schedule 3 of the 2016 Act. He explained that the Respondent, in breach of her obligations as a tenant under her lease, had failed to look after the Property and its garden in a proper tenant like manner. That the condition of both was continuing to deteriorate and the anticipated costs in remedying same were increasing (although no costs were specified). In relation to the garden, he explained that due to the Respondent's failures, the garden had deteriorated to such an extent (including being affected by pet faeces) that the gardener who had been employed by the Applicant would no longer attend same. He explained that the situation was only worsening and that the security deposit of £2,100 would not be sufficient to meet the costs of rectifying matters as they were now and the longer things went on, the more the costs would be for the Respondent and that was not in her interests. He confirmed that there were no rent arrears albeit the Respondent paid one week late by agreement.

In response, the Respondent indicated that she accepted she was in breach of her obligations under the lease for the Property. She accepted that she was not looking after the Property and the condition of same was deteriorating as a result. She also accepted that she was not able to look after the Property, and she would not be able to remedy the condition of same or any damage that had already occurred. She stated that the Property was too much for her in her circumstances, that it was no longer suitable for her and her family and she was falling into financial difficulties and felt she had to leave. She indicated that she therefore would not be opposing an Eviction Order being granted. She explained that she was not in work. She lived in the Property with her 4 children, 3 of which were adults. That her youngest child was 14 years old, but that through the involvement of social work that child is being cared for by her sister. She explained that they all had health difficulties including mental health difficulties. She also lives at the Property with 5 pets (3 cats and 2 dogs) although she has an additional dog on a temporary basis at present. She explained that she had been in touch with her local authority, but they had said they could not assist her until this application had been dealt with. She explained that she was aware of the effect of an Eviction Order being granted and that she and her family would be rendered homeless and along with her children may be placed in temporary accommodation. Despite this she felt that due to her circumstances it was best that matters proceeded as quickly as they could.

- Findings in Fact and law

- 1) That the Applicant is the heritable proprietor of the Property.

- 2) That the Respondent and the Applicant entered into a tenancy for the Property that commenced on 22 May 2023.
- 3) That all rent due for the Property by the Respondent has been paid and is up to date.
- 4) That the Property has not been kept tidy or clean throughout the Respondent's tenancy of same.
- 5) That the garden for the Property is overgrown, affected by dog faeces and has not been maintained by the Respondent in a reasonable manner throughout the Respondent's tenancy.
- 6) By Notice to Leave dated 12 September 2024 intimated by way of email of the same date the Applicant gave notice to the Respondent of their intention to recover possession of the Property in terms of Ground 11 of the Private Housing (Tenancies)(Scotland) Act 2016 and confirmed that proceedings would not be raised before 13 October 2024.
- 7) That the Respondent is not in employment.
- 8) That the Respondent lives in the Property with her 4 children aged 23, 21 18 and 14 years although the youngest child is under supervision of social work and in the care of her sister.
- 9) That the Respondent resides in the property with 5 pets and has 1 additional animal staying with her on a temporary basis.

- Reasons for Decision

The Applicant seeks an Eviction Order due to the Respondent's failure to comply with her obligations as a tenant under the lease, in particular to take reasonable care of the Property and its garden. That failure was admitted by the Respondent. The Notice to Leave complied with all legislative requirements and the Application was submitted with appropriate vouching and was in proper form. The Respondent indicated that she did not oppose the Application and was content that the Eviction Order sought be granted. In the circumstances, the requirements of Ground 11 of schedule 3 the 2016 Act being met and admitted and the Respondent consenting to the Order being granted there was no basis for finding that it would not be reasonable to grant the order, the Tribunal therefore resolved to grant the Application. The only additional matter that the Tribunal considered was whether enforcement of the order should be delayed for any particular period. Having considered the matter and noting the parties' respective positions on same, the Tribunal decided to delay enforcement for a period 2 months from the date of the order primarily to allow the Respondent additional time to engage with the appropriate authorities regarding rehousing. Both parties indicated that they were in agreement with same.

- Decision

That an Eviction Order relative to the Property should be granted, but enforcement of same should be delayed for a period of 2 months from the date of the order..

## **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.

Rory Cowan

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Legal Member/Chair

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Date

9 July 2025