



**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 2016 Act”) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)**

**Chamber Ref: FTS/HPC/EV/24/3008**

**Re: Property at 15 Pladda Crescent, Irvine, North Ayrshire, KA11 1DP (“the Property”)**

**Parties:**

**Mr Steven Easton, 2 Newfield Drive, Dundonald, South Ayrshire, KA2 9EW (“the Applicant”)**

**Ms Hannah Glass, 15 Pladda Crescent, Irvine, North Ayrshire, KA11 1DP (“the Respondent”)**

**Tribunal Members:**

**Nicola Weir (Legal Member) and Elaine Munroe (Ordinary Member)**

**Decision**

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

**Background**

1. By application received on 2 July 2024, the Applicant applied to the Tribunal for an order for recovery of possession of the property in terms of Grounds 12A (substantial rent arrears equivalent to 6 months’ worth of rent) of Schedule 3 to the 2016 Act. Supporting documentation was submitted in respect of the application, including a copy of the Notice to Leave/proof of service of same, the Section 11 Notice to the local authority in terms of the Homelessness (Scotland) Act 2003/proof of service of same, a Rent Statement showing the balance of rent arrears owing at the time of the Notice to Leave being served of £5,258.86) and evidence regarding the ‘pre-action protocol’. An application

for payment of rent arrears was submitted at the same time and was conjoined with this application. Both applications proceeded together through the Tribunal process.

2. Following initial procedure, on 24 July 2024, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. A Case Management Discussion ("CMD") was fixed for 29 November 2024. The application and details of the CMD scheduled were served on the Respondent by Sheriff Officer on 23 October 2024. In terms of said notification, the Respondent was given an opportunity to lodge written representations, which she did on 7 November 2024, alleging some repair issues in respect of the Property.
4. A CMD took place on 29 November 2024, at which the Applicant was represented and the Respondent attended in person. This took place before different Tribunal Members. The Respondent sought a postponement of the CMD on the basis that she had given birth just a few days before and needed time to prepare. The Applicant did not oppose this request and the CMD was adjourned to a later date. The Tribunal also issued a Direction requiring further information to be lodged by the Respondent confirming her position and in respect of the alleged repairs issues. There was no response lodged to the Direction.
5. The adjourned CMD took place on 2 May 2025. The Applicant was again represented but the Respondent did not attend. This CMD also took place in front of different Tribunal Members. Following the CMD, the Tribunal granted the Orders sought by the Applicant in both applications. These decisions were notified to parties.
6. On 6 May 2025, the Respondent emailed the Tribunal, requesting a recall or appeal. advising that she had not been notified in writing of the outcome of the first CMD on 29 November 2024, nor the details of the adjourned CMD on 2 May 2025 and that this was why she had not been in attendance. On investigation, it appeared that notifications to the Respondent had been sent by the Tribunal, in error, to the Respondent's old email address. On this basis, on 6 May 2025, the Tribunal granted Recalls in respect of both orders which had been granted on 2 May 2025 and an Evidential Hearing was thereafter scheduled to take as soon as possible thereafter, to take place before different Tribunal Members. On 6 May 2025, the original Tribunal re-issued a Direction to the Respondent, in the same terms as previously.
7. On 15 May 2025, in response to the Direction, the Respondent lodged detailed written representations, outlining her position in respect of the applications and some documentation and photographs in respect of the repair issues which had previously affected the Property, but which she advised had subsequently been repaired. She also explained the position regarding her receipt of state benefits and the payments being made to the rent account every month, her

personal/family circumstances and her housing situation. She indicated that she was not now opposing eviction but was seeking an extension of time in order to secure alternative housing through the local authority and to enable her to vacate the Property.

8. On 2 June 2025, CHAP emailed the Tribunal, confirming that they were representing the Respondent, enclosing a mandate in this regard and requesting a copy of the case papers.
9. On 29 July 2025, an updated rent statement was lodged on behalf of the Applicant, seeking to increase the sum claimed in the payment application to £5,802.90, being the increased balance now owing in rent arrears.

### **Evidential Hearing**

10. The hearing took place by telephone conference call on 11 August 2025. In attendance was Miss Barclay, Property Manager for Easton Housing Limited on behalf of the Applicant who was accompanied by another person from that company, who was attending in the capacity as an observer only and did not participate in the hearing. The Respondent, Ms Hannah Glass, was also in attendance and was represented by Mr Alister Meek of CHAP.
11. Following introductions and introductory remarks by the Legal Member, Miss Barclay confirmed that the amount owing in respect of the most recent rent statement lodged was £5,802.90, although there has since been a further months' rent applied and the current balance will therefore be slightly higher.
12. Mr Meek confirmed that neither application was now opposed by the Respondent, Miss Glass. He explained that, following the Recall of the order, Miss Glass was no longer a priority for an offer of housing from the local authority, although she will be prioritised if an eviction order is now granted. He explained that Miss Glass had been informed that she would be regarded as intentionally homeless if she had simply let orders pass against her. He is working with her and the local authority about her housing situation and will continue to support her with this. She is vulnerable and has three young children, aged 7, 3 and 9 months. She is therefore seeking an extension of three months on the eviction date to allow alternative property to be secured for Miss Glass and her family to move into. Mr Meek confirmed it is an extension of three months from today's date that is sought.
13. Miss Barclay stated that, as long as it was three months from today for the date of execution of the eviction order and that the order would be granted today, the Applicant would have no objection to this, to allow Miss Glass to obtain suitable alternative accommodation.
14. The Tribunal Members conferred and, having considered the application, confirmed that they were satisfied that the ground for eviction was met and also that it was reasonable to grant the order in all the circumstances, subject to a

three month extension on the earliest execution date of the eviction order. It was confirmed that the relevant date would be **11 November 2025**. It was explained that the decision paperwork would be issued quickly and that the Respondent should accordingly update the local authority as soon as possible, to progress matters with her housing application. It was explained to the Respondent that she could move out sooner than the date stipulated, if she secured alternative accommodation and was in a position to do so. Mr Meek confirmed that they would liaise with the Applicant's letting agents in this regard. Parties were thanked for their attendance and the hearing concluded.

## **Findings in Fact**

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 5 May 2020.
3. The rent due in respect of the tenancy was originally £500 per calendar month but has been increased during the tenancy to the current rental of £520.
4. There was a background of rent arrears throughout the tenancy which appeared to be due to a shortfall every month in the rental payments being made, which are sourced from the Respondent's state benefits.
5. Arrears amounted to £5,258.86 by the time the Notice to Leave was served in March 2024, amounted to £5,405.77 when this application was lodged, and £5,802.90 at the end of July 2025.
6. The Applicant's letting agents have sought to engage with the Respondent concerning the rent arrears and issued communications to her in respect of the 'pre-action protocol'.
7. The Respondent has been maintaining rent payments, subject to a shortfall every month, but has been unable to resolve the rent arrears situation.
8. A Notice to Leave in proper form and giving the requisite period of notice was served on the Respondent by email on 19 March 2024, in terms of the tenancy agreement.
9. The date specified in the Notice to Leave as the earliest date an eviction application could be lodged with the Tribunal was specified as 19 April 2024.
10. The Tribunal Application was submitted on 2 July 2024.
11. The Respondent has remained in occupation of the Property.
12. The Respondent has been called upon to make payment of the rental arrears or enter into a satisfactory payment arrangement but has failed to do so.

13. The Respondent is in substantial arrears of rent, exceeding the equivalent of six months' rent.
14. There is no indication that the arrears have arisen wholly or partly as a result of a failure or delay in the payment of relevant benefits.
15. The Respondent has already made application to the local authority for suitable social housing for herself and her family.
16. The Respondent no longer opposes the application, but sought an extension of three months on the eviction date.
17. The Applicant was not opposed to such an extension.

### **Reasons for Decision**

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, the procedural background to the application, the written representations lodged by both parties throughout the proceedings and to the oral representations at the CMD by Mr Barclay on behalf of the Applicant and by Mr Meek on behalf of the Respondent.
2. The Tribunal found that the application was in order, that a Notice to Leave in proper form and giving the correct period of notice had been served on the Respondent and that the application was made timeously to the Tribunal, all in terms of the tenancy agreement and the relevant provisions of the 2016 Act.
3. The Tribunal considered the ground of eviction relied upon in this application, namely Ground 12A was satisfied in that all requisite elements of that ground had been met. The Tribunal was satisfied that there were substantial rent arrears amounting to in excess of six months' rent and that the rent account had been continuously in arrears throughout. The Tribunal was satisfied that the Applicant had written to the Respondent before commencing proceedings in terms of the 'pre-action protocol'. Although, the arrears appeared to have accrued through a shortfall in the amount paid to the Respondent via her state benefits towards her housing costs and the monthly rental due, there was no information before the Tribunal that benefits payments had been delayed or not paid for any particular reason, nor that benefits were due to be increased or reassessed.
4. As to reasonableness, the Tribunal took into account the substantial amount of the arrears currently owing, the length of time the account had been in arrears and the fact that the Respondent appeared to be conceding that the Property was simply unaffordable to her. The Tribunal also took into account that the Respondent was no longer pursuing any arguments regarding the repairs situation which had previously affected the Property, but which had now been

resolved and confirmed that she was no longer opposing an eviction order being granted. It was noted that the Respondent has now received advice in respect of the matter from CHAP and that CHAP was also assisting and supporting her in connection with her application for social housing through the local authority. It appeared that her application for housing would be further prioritised on the granting of an eviction order today. The Tribunal also considered the Respondent's family circumstances, particularly that she had three young children, including a nine-month old baby and that, although she was not opposed to eviction, she did seek a three-month extension on the eviction date to allow more time for suitable alternative accommodation to be identified for her by the local authority. All the factors mentioned above satisfied the Tribunal that it was reasonable to grant the eviction order sought, and to do so at this stage, subject to the three-month extension sought, which was not opposed on behalf of the Applicant and which the Tribunal considered to be a reasonable extension in the circumstances of the Respondent. The Tribunal had no material before it either to contradict the Applicant's position nor to further advance any reasonableness arguments on behalf of the Respondent. The Tribunal accordingly determined that an order for recovery of possession of the Property could properly be granted at the hearing and that there was no need for an adjournment to a further hearing.

### **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.**

**Legal Member: Nicola Weir**

**Date: 11 August 2025**