

**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/25/1835**

**Re: Property at 99 Valley Gardens South, Kirkcaldy, KY2 6AX (“the Property”)**

**Parties:**

**Mrs Rekha Bhalla, 15 Toller Road, Leicester, LE2 3HP (“the Applicant”)**

**Mr David McDaid, Mrs Sharon McDaid, 99 Valley Gardens South, Kirkcaldy, KY2 6AX (“the Respondents”)**

**Tribunal Members:**

**Rory Cowan (Legal Member) and Ahsan Khan (Ordinary Member)**

**Decision (in absence of the Respondent)**

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

- **Background**

By application dated 23 April 2025 (the Application), the Applicant seeks 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, through her representatives, lodged the following:

- 1) Copy lease;
- 2) Copy Notice to Leave dated 17 March 2025 along with copy intimation email;
- 3) Section 11 Notice;
- 4) Rent statement; and
- 5) Copy email and letters to the Respondents by way of purported compliance with pre-action requirements.

Following acceptance of the Application, a Case Management Discussion (CMD) was fixed for 25 November 2025 to be heard by way of conference call. Despite

intimation of the Application by sheriff officers to the Respondents, no response was received from or on behalf of the Respondents.

- The Case Management Discussion

At the CMD the Applicant appeared along with her husband Mr Sanjay Bhalla. The Applicant requested that Mr Bhalla represent her. The Respondents did not appear, nor were they represented. Notwithstanding, the Tribunal was of the view that they were aware of the CMD and their requirement to attend and that if they failed to do so, the Application could be dealt with in their absence. Mr Bhalla explained that the arrears had now risen to £9,481.00 and that the Respondents had not paid any rent for "18 months". When asked about the reasons for the arrears, Mr Bhalla indicated that the letting agents and the solicitors were the ones who had been in contact with the Respondents, but that one of the reasons they had heard was that the Respondents were looking for an eviction order so they could be rehoused by the local authority. He did acknowledge that there had been a suggestion that the Property may need some refurbishment, but there had only ever been mention of the Property's windows in that regard. Reference was then made to an email dated 25 October 2024 from the second named respondent indicating that:

*"As soon as we get confirmation that landlord has gone to first tier tribunal we will arrange to start paying back the rent due."* (sic)

In terms of the Respondents, Mr Bhalla indicated that as far as he was aware both were working, but he was not sure of their ages. He indicated that there were no children in the Property. He also stated that the rent for the Property (which had 3 bedrooms) had not been increased from the start of the tenancy and at £499 was not at market levels.

The Applicant was then asked about the impact of the arrears on her, and she indicated that it had caused high blood pressure and stress. It had impacted her work in that she could not concentrate due to the stress, and it had therefore had an impact on her income. She confirmed that there was no mortgage on the Property, but that she still had the costs of complying with her obligations of a landlord through safety certificates as well as legal costs whilst not receiving any rent since April 2024. Whilst her husband owns other property (a mix of commercial and residential), she only owned the Property and the house she lived in.

The Applicant's compliance with the appropriate pre-action requirements was then discussed. Mr Bhalla indicated that this was dealt with by their solicitors and what had been lodged was all they believed had been sent to the Respondents.

- Findings in Fact

- 1) That the Applicant is the heritable proprietor of the Property.
- 2) That the Applicant and Respondents, entered into a tenancy for the Property which commenced on 18 December 2019.
- 3) The monthly rent was £499.
- 4) By Notice to Leave dated 17 March 2025 intimated by way of email the Applicant gave notice to the Respondents of her intention to recover

possession of the Property in terms of Ground 12 of the Private Housing (Tenancies)(Scotland) Act 2016 and confirmed that proceedings would not be raised before 17 April 2025.

- 5) That, as at 18 January 2025, the Respondents were in arrears of rent to the extent of £4,491.00.
- 6) That the Respondents first fell into arrears on May 2024.
- 7) That the Respondents have therefore been in arrears for a period in excess of 3 consecutive months.
- 8) That, as at 25 November 2025, the arrears had risen to £9,481.00.
- 9) That the Applicant through her agents and solicitors have sought to engage with the Respondents to address their arrears.
- 10) That the Respondents acknowledged arrears and that they would be repaid by email on 25 October 2024.
- 11) That attempts to engage with the Respondent included the email dated 20 December 2024 which included reference to superseded Pre-action Requirements support details.
- 12) The Notice to Leave dated 17 March 2025 was in the prescribed format.
- 13) That the Applicant has complied with all notice requirements in terms of the Private Housing (Tenancies)(Scotland) Act 2016 and that Ground 12 of Schedule 3 has been made out.
- 14) That the Respondents are in employment.
- 15) That there are no children resident in the Property with them.
- 16) That the arrears have not accrued as a result of any failures or delays in housing benefit.
- 17) That the Respondents have failed to engage with the Applicant regarding the arrears or sought to address them.

- Reasons for Decision

The Applicant has complied with the notice requirements under the 2016 Act and there has at least been some attempt at compliance with the PARs applicable to rent arrears recoveries. Having heard Mr and Mrs Bhalla and having considered the relevant circumstances before them, the Tribunal was satisfied that it was reasonable to grant an Eviction Order. Whilst there was no appearance by or on behalf of the Respondents, the Tribunal did seek information from Mr Bhalla as narrated above. It was noted that the Respondents lived together at the Property and appeared to be in employment. It was also noted that there was no suggestion of an entitlement to any form of benefits that might assist with payment of their rent. The arrears are substantial and continue to accrue. It appeared from the rental statements that the Respondents have made no attempt to pay their rent for some time and the last payment was made in April 2024, approximately 18 months ago. There have been persistent arrears since May 2024. It was also noted that the Respondent has failed to substantively respond to attempts to contact them regarding the Property and the arrears of rent other than to acknowledge arrears and that they would take steps to repay them back in October 2024. The main factors that therefore weighed against the Respondents were the scale of the arrears, that they continue to accrue and that there have been persistent arrears for a considerable period of time. Whilst there had been mention of high blood pressure and stress by the Applicant, there was no medical vouching for same and this was therefore not a factor that the Tribunal took into account when assessing the

question of reasonableness. There was nothing in the Respondents' circumstances, as put before the Tribunal, that particularly weighed in their favour when assessing the question of reasonableness and they have chosen not to appear or to be represented.

The Tribunal also considered the terms of the letter issued to the Respondents dated 20 December 2024. It was not in the form of the template letters produced by the Scottish Government and referred to superseded information (relating to information applicable during the COVID pandemic). Whilst there was no requirement to use the template letters prepared by the Scottish Government, landlords do require to provide certain information as part of the prescribed pre-action requirements. When considering the terms of the letter dated 20 December 2024, whilst some attempt had been made, there had been very little compliance with those requirements. Nonetheless and despite this, this failure was not a factor that weighed heavily enough to determine the question of reasonableness against the Applicant.

- Decision

That an eviction order be granted against the Respondents.

### **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.**

# R.Cowan

Legal Member/Chair

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**25 November 2025**  
Date