



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/25/0345**

**Re: Property at 10 Seyton Lane, East Kilbride, G74 4LJ (“the Property”)**

**Parties:**

**Graeme McArthur, 112 Falklands Drive, East Kilbride, G74 1EN (“the Applicant”)**

**Jason Smeall, 10 Seyton Lane, East Kilbride, G74 4LJ (“the Respondent”)**

**Tribunal Members:**

**Valerie Bremner (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 be granted in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that The Respondent has been in arrears of rent over three or more consecutive months and it is reasonable on account of that fact to issue an eviction order.**

**Background**

1. This application for an eviction order in terms of Rule 109 of the Tribunal rules of procedure was first lodged with the Tribunal on 28<sup>th</sup> January 2025 along with a related application for a payment order with reference FTS/HPC/CV/25/0346 and accepted by the Tribunal on 26<sup>th</sup> February 2025. A case management discussion was fixed for both applications on 21<sup>st</sup> August 2025 at 10am.

**Case Management Discussion**

2. The Applicant did not attend the case management discussion but was represented by Mr Dean of Bannatyne Kirkwood, France & Co solicitors. The Respondent did not attend the case management discussion nor was he represented. The Tribunal had sight of an execution of service of both applications and supporting papers together with the date of the case management discussion on the Respondent by Sheriff officer

putting these through the letterbox at the property on 9<sup>th</sup> July 2025. The Tribunal was satisfied that the Respondent had received fair notice of the Applications and the date of the case management discussion and considered that it was appropriate to proceed in the Respondent's absence.

3. The Tribunal had sight of both applications, papers apart, a tenancy agreement, a Notice to leave together with an email to the Respondent and delivery receipt, a PARs e mail to the Respondent, a rent schedule, a Notice in terms of Section 11 of the Homelessness etc ( Scotland ) Act 2003 together with an email sending this to the relevant local authority.

4. The parties had entered into a private residential tenancy at the property with effect from 30<sup>th</sup> April 2022 . The monthly rent payable in terms of the tenancy agreement is £625 per calendar month payable in advance. The rent had first fallen into arrears early in July 2024 and apart from a payment in December 2024 no rent had been paid since June 2024 and the rent arrears had reached £7500 at the date of the hearing.

5. It was understood by the Applicant's representative that the Respondent had lost his job following the start of the tenancy and there had been little or no contact with him following that period. When the rent arrears had first commenced the Applicant's Letting Agent had contacted the Respondent to find out the position regarding the rent arrears, but the Respondent had rejected any proposition made by the Letting Agent. There had been concerns about the Respondent's mental health.

6. The Applicant's Letting Agent had no knowledge of any other person living at the property and the Respondent had never mentioned to the Applicant's Letting Agent that he was in receipt of benefits or that there had been any delay or failure in receiving such benefits.

7. A Pre Action Protocol (PARs) email had been sent to the Respondent by the Applicant's Letting Agent dated 28<sup>th</sup> January 2025 when the rent arrears had reached £2500, and this signposted him to sources of support if he was having trouble paying the rent.

8. A Notice to Leave in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies)( Scotland) Act 2016 was emailed to the Respondent on 28<sup>th</sup> November 2024 when the rent arrears had reached £2500.

9. A notice in terms of Section 11 of the Homelessness etc ( Scotland ) Act 2003 was sent to the local authority where the property is situated on 28<sup>th</sup> January 2025.

10. The rent arrears are forming a growing source of stress for the Applicant for whom this is his only rental property.

11. The tribunal was satisfied that it had sufficient information upon which to make a decision and that the proceedings had been fair.

## **Findings in Fact**

12. The parties entered into a tenancy agreement at the property with effect from 30th April 2022

13. The monthly rent payable in respect of the tenancy agreement by the Respondent is £625 per calendar month payable in advance.

14. Apart from one payment made in December 2024 no rent has been paid in relation to the tenancy by the Respondent since June 2024

15. At the date of the hearing on 21st August 2025 accrued rent arrears in relation to the tenancy were £7500 and the Respondent has been in rent arrears for more than three consecutive months of the tenancy.

16. When the rent arrears had reached £2500 a letting agent acting on behalf of the Applicant had sent a Notice to Leave dated 28 November 2024 to the Respondent in proper form, giving proper notice and setting out the eviction ground by email and the Notice to Leave indicated that no application would be made to the tribunal for an eviction order before 29<sup>th</sup> December 2024.

17. A notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 was sent to South Lanarkshire council in relation to this application on 28th January 2025.

18. A pre action protocol e-mail was sent by a letting agent on behalf of the Applicant to the Respondent on 28th January 2025 signposting the Respondent to sources of support should he be having difficulty in paying the rent.

19. The Applicant understands that the Respondent lives alone at the property and lost his job shortly after the tenancy started

20. There has been little contact between the Applicant's letting agent and the Respondent, but when the letting agent contacted the Respondent regarding the rent arrears the Respondent rejected any proposition made regarding the arrears.

21. The Applicant has no knowledge of the Respondent being in receipt of a relevant benefit and the Respondent has never intimated that his difficulties with paying the rent have arisen as a result of a delay or failure in the payment of any relevant benefit to him or on his behalf.

22. This property is the Applicant's only rental property, and the rent arrears are a growing source of stress for him.

### **Reasons for Decision**

23. The tribunal was satisfied that the appropriate procedural steps had been carried out in respect of the Notice to Leave and the section 11 notice served in relation to this application, together with the use of a pre-action protocol e-mail. The Respondent did not challenge the eviction, or the level of rent arrears accrued. This property is the Applicant's only rental property, and the rent arrears are a growing source of stress for him, as no rent is being paid by the Respondent. Having considered the overall circumstances, including the level of accrued rent arrears and the ongoing strain being

experienced by the Applicant, the tribunal considered that it was reasonable to grant an eviction order in this application.

### **Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted in terms of Ground 12 of Schedule 3 of the Private Housing ( Tenancies) ( Scotland) Act 2016 in that the Respondent has been in arrears of rent over three or more consecutive months and it is reasonable on account of that fact to issue an eviction 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.**

# Valerie Bremner

**Legal Member/Chair**

**Date: 21/8/25**