



**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 Act')**

**Chamber Ref: FTS/HPC/EV/19/0906**

**23 Ardmay Crescent, Kings Park, Glasgow G1 2DH  
(‘the Property’)**

**PARTIES:**

**Ms Eleanor Jane Strang**, c/o 5 St Vincent Place, Glasgow G1 2DH  
(‘the Applicant’) represented by Miss Kirstie Donnelly, Bannatyne Kirkwood France & Co, Solicitors, 16 Royal Exchange Square, Glasgow G1 3AG

**Ms Maureen-Jessica McGuire**, 23 Ardmay Crescent, Kings Park, Glasgow G44 4PU  
(‘the Respondent’)

**TRIBUNAL:**

**Joseph C Hughes (Legal Member)** [sitting alone]

**Audrey Warden (Clerk of Tribunal)**

**DECISION** [in absence of the Respondent]

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the Tribunal’) determined that the Applicant was entitled to an Order for Possession of the property and the ejection of the Respondent from the property under Ground 12 of Schedule 3 of the Act.**

## **BACKGROUND**

By Application dated 19<sup>th</sup> March 2019 and received on 20<sup>th</sup> March 2019, the Applicant sought an Order for Possession of the property and the ejection of the Respondent in terms of Section 51 of the Act on the basis of Ground 12 of Schedule 3 of the Act since the Respondent has accrued arrears of rent by an amount equal to or greater than one month's rent and has been in arrears of rent for a continuous period of three consecutive months. The Application was lodged in terms of Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ('the Regulations').

The Tribunal had before it:

- (i) Private Rental Tenancy Agreement dated 3<sup>rd</sup> July 2018;
- (ii) Rent Ledgers showing rent paid and received;
- (iii) Notice to Leave dated 4<sup>th</sup> February 2019, intimated by email to the Respondent on 4<sup>th</sup> February 2019;
- (iv) Section 11 Notice dated 19<sup>th</sup> March 2019, intimated my email to the Local Authority on 19<sup>th</sup> March 2019

On 28<sup>th</sup> March 2019, the Application was accepted by the Tribunal and referred for determination by the Tribunal.

A Case Management Discussion ('CMD') took place on Tuesday 7<sup>th</sup> May 2019 at 2pm within Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. Appropriate intimation of that Hearing was given to both parties.

Miss Kirstie Donnelly (Bannatyne Kirwood France Solicitors) appeared on behalf of the Applicant.

Neither the Respondent nor a representative attended the Hearing.

The Applicants' representative confirmed that they wished the Tribunal to grant the Order for Eviction as sought in the Application.

## **FINDINGS IN FACT**

- (i) The Applicant and the Respondent are respectively the Landlord and Tenant. They entered into a tenancy agreement for the property at 23 Ardmay Crescent, Kings Park, Glasgow on 3<sup>rd</sup> July 2018.
- (ii) The Tenancy was a Private Residential Tenancy.
- (iii) The rent was set at £600 per calendar month payable monthly in advance.
- (iv) The Respondent was served with a valid Notice to Leave dated 4<sup>th</sup> February 2019. It was intimated on 4<sup>th</sup> February 2019

- (iv) The Respondent was served with a valid Notice to Leave dated 4<sup>th</sup> February 2019. It was intimated on 4<sup>th</sup> February 2019
- (v) A Section 11 Notice Dated 19<sup>th</sup> March 2019 was emailed to the Local Authority on 19<sup>th</sup> March 2019.
- (vi) The rent arrears as at the date of the application was £1806.88.
- (vii) The arrears are in excess of one month's rent.
- (viii) The Respondent has been in rent arrears for a continuous period in excess of three consecutive months.
- (ix) The rent arrears are not wholly or partly as a result of a delay or failure in the payment of a relevant benefit.

## REASONS FOR DECISION

The Tribunal is satisfied that parties have been notified of the CMD. Parties have been advised that the Tribunal could determine the matter at the CMD if satisfied that it had sufficient information and it was fair to do so.

Miss Donnelly intimated that she received a phone call this morning from someone who stated that she was previously a 'family friend'. The caller stated she was Rachel Montgomery. She stated that she had visited the property this morning to deposit some parcels. She told Miss Donnelly that she was concerned that the property was insecure. Ms Montgomery stated that she had found the paperwork about the CMD within the property. She further stated that the Respondent was given a prison sentence on 18<sup>th</sup> April 2019 but was on bail beforehand. Miss Donnelly noted the mobile number of Ms Montgomery in order to make arrangements for the letting agents to secure the property. The Tribunal note that Sandra Mackie, from Harvey Lets (who manage the property for the Applicant) emailed the Respondent and the Guarantor, Mr George Campbell (understood to be the Respondent's father) on 16<sup>th</sup> April 2019 at 14.47 hours. This email intimated details about the CMD including date, time and location. A copy of the entry on the Housing and Property Chamber website was included within the said email. Mr Campbell responded to this email on 16<sup>th</sup> April 2019 at 1650 hours offering to repay the arrears. This offer was withdrawn by a further email from Mr Campbell dated 18<sup>th</sup> April 2019 at 1547hours. After careful consideration of all matters the Tribunal is satisfied that due intimation of the CMD has been made by sheriff officers on 16<sup>th</sup> April 2019 on the Respondent.

The Tribunal is therefore satisfied that the Respondent has received notice of today's CMD in terms of Rule 24. The Tribunal proceeded with the CMD in the Respondent's

absence in terms of Rule 29. The Tribunal considered that it had enough information before it today to make a decision and the procedure adopted has been fair. The Tribunal considered all the documents lodged including the two rent statements.

The Applicant sought to amend the original Application in their letter dated 16<sup>th</sup> April 2019 (in terms of Rule 13). This request was intimated by the Applicant to the Respondent together with a copy of the updated rent statement by first class and recorded delivery letters on 16<sup>th</sup> April 2019. The amendment was not allowed as the Tribunal was not satisfied that the Respondent had received intimation of the proposed amendment.

The information lodged gives details of the rent arrears. The mandatory Ground 12 within Schedule 3 of the Act is clearly met.

The Tribunal was satisfied that the terms of Section 51 of the Act had been complied with and that on the basis of all the information available, the rent arrears were not as a result of any delay or failure in the payment of a relevant benefit.

The requirements of paragraph 12(2) of Schedule 3 of the Act are met and therefore Ground 12 for eviction must apply.

The basis for the Order for Possession was accordingly established. The Tribunal accordingly granted the mandatory Order sought in terms of Section 51 of the Act.

### **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.**

[‘Joseph C Hughes’ ]

Legal Member  
Housing Property Chamber

**Date: 7<sup>th</sup> May 2019**