

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**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/19/1517**

**Re: Property at 28 Lymekilns Road, East Kilbride, G74 4TU (“the Property”)**

**Parties:**

**Skeryl Properties, (“the Applicant”) per Macfie and Co, 5 Cathkinview Road, Glasgow, G42 9EA (“the Applicant’s Agents”)**

**Mr John Hay, 28 Lymekilns Road, East Kilbride, G74 4TU (“the Respondent”)**

**Tribunal Members:**

**Karen Moore (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Order for Possession be granted.**

**Background**

1. By application received dated 17 May 2019 (“the Application”), the Applicant's Agents on behalf of the Applicant made an application to the Tribunal for a possession order in terms of Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). A copy of the tenancy agreement between the parties, copy Notice to Leave, copy Notice in terms of Section 56 of the Act, all with proof of intimation and a summary of rent due and owing were lodged as part of the Application.
2. On 24 May 2019, a legal member of the Tribunal with delegated powers of the Chamber President accepted the Application and a Case Management Discussion (“CMD”) was fixed for 27 June 2019 at 10.00 at the Glasgow Tribunal Centre, 20 York Street, Glasgow, G2 8GT. The CMD was intimated to both parties.

**Case Management Discussion**

3. The CMD took place on 27 June 2019 at 10.00 at the said Glasgow Tribunal Centre, 20 York Street, Glasgow, G2 8GT. Neither the Applicant nor the

Respondent was present, the Respondent having telephoned the Tribunal to advise that he would not attend.

4. The Applicant was represented by Mr. Tarelli of the Applicant's Agents. The Respondent was unrepresented.

## **Summary of Discussion**

### **Findings in Fact**

5. From the Application and the CMD, I found that a tenancy agreement had existed between the Parties and that a Notice to Leave in the correct statutory format had been served on the Respondents by the Applicant. I found that at the beginning of the day on which the Tribunal first considered the Application and at the date of the CMD an amount of rent of more than an amount equal to or greater than one month's rent and rent arrears of more than three consecutive months due are due and owing by the Respondent. I found that the Notice in terms of Section 56 of the Act had been properly intimated to the relevant local authority. Accordingly, I found that the statutory and provisions required had been satisfied.

### **Decision and Reasons for Decision**

6. Having found that the correct statutory procedure had been followed and that an eviction ground in terms of Paragraph 12 of Schedule 3 to the Act is satisfied, I had regard to Section 51 of the Act which states that "the First-tier Tribunal is to issue an order if one of the grounds in schedule 3 applies".
7. I then had regard to Rule 17(4) of the Rules which state that the Tribunal "may do anything at a case management discussion which it may do at a hearing, including make a decision" and, accordingly, I determined to grant an Order for possession.

## **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.**

**Karen Moore**

**Legal Member/Chair**

*27 June 2019*

**Date**