



**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/19/1588

**Re: Property at 36 Peasehill Fauld, Rosyth, Dunfermline, Fife, KY11 2DQ (“the
Property”)**

Parties:

Mr Jeffrey Forrest, 109 Peasehill Gait, Rosyth, Fife, KY11 2BD (“the Applicant”)

**Mr Jamie Dall, 36 Peasehill Fauld, Rosyth, Dunfermline, Fife, KY11 2DQ (“the
Respondent”)**

Tribunal Members:

Andrew McLaughlin (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

**This Application called for a Case Management Discussion on 6 August 2019
at 2pm in The Vine Conference Centre, 131 Garvock Hill, Dunfermline, KY11
4JU. The Applicant was personally present. There was no appearance by or on
behalf of the Respondent. The Application was heard alongside a conjoined
case in respect of an Application for a Payment Order.**

**The Applicant sought an Eviction Order on the basis of Grounds 12 of
Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. It appeared
clear that there was a tenancy in place between the parties, albeit it had been
erroneously narrated in the tenancy agreement itself as a Short Assured
Tenancy despite it having previously become incompetent for such a type of
agreement to be created. The tenancy should therefore be properly categorised
as a Private Residential Tenancy as per s1 of the Private Housing (Tenancies)
(Scotland) Act 2016.**

The Tribunal noted that on 17 April 2019 the Applicant had validly served a Notice to Leave on the Respondent setting out the correct basis for the Application subsequently made and had also providing the Respondent with the requisite notice period before raising the Application.

The Tribunal noted, after being addressed by the Applicant on bank statements lodged with the Application, that it appeared that Grounds 12 of the above Schedule was engaged. At today's date there were rent arrears of £3,190.00. This was a sum in excess of the agreed monthly rent of £550.00 and it appeared that the Respondent had been in monthly arrears of rent since making payment of the rent due in January 2019. It appeared therefore that the Respondent was in arrears of rent for a period of at least three months. There was also no information before the Tribunal to suggest that the cause of the arrears was a consequence of any delay or failure in the payment of a relevant benefit.

Accordingly the Tribunal considered Grounds 12 to be established and accordingly granted 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.

Andrew McLaughlin

6 August 2019

Legal Member/Chair

Date