



**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**

Reference number: FTS/HPC/EV/23/2145

Order granted on 11 September 2023 in absence of the First Respondent

**Re: Property at Flat 5, 24 Halmyre Street, Leith, Edinburgh, EH6 8QD (“the Property”)**

**Parties:**

**Places for People Homes Limited, having a place of business at 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)**

**Mr Marek Stanislaw Paszkowski and Mr Roman Paliszewski, both Flat 5, 24 Halmyre Street, Leith, Edinburgh, EH6 8QD residing (“the Respondent”)**

**Tribunal Members:**

**Paul Doyle (Legal Member)  
Gordon Laurie (Ordinary member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 12A of schedule 3 to the 2016 Act.**

**Background**

The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicant had lodged with the Tribunal Form E dated 28/06/2023. The documents produced were a Tenancy Agreement dated 23 January 2020; a notice to leave served on 07/03/2023, a Notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act

2003 and a schedule of unpaid rental. A copy title sheet was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

### **Case Management Discussion**

A case management discussion took place by telephone conference at 2.00pm on 12 September 2023. The Applicant was represented by Mr K Caldwell, solicitor, of Patten & Prentice LLP. The second respondent was represented by Mr A Wilson of CHAI. The first respondent was neither present nor represented. The case file discloses that the first respondent has had timeous intimation of the date, time, and method of joining the hearing. No application is made for an adjournment. We can justly determine this case in absence of the first respondent.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Private Residential Tenancy Agreement for the Property on 01 June 2021.
2. The initial rent in terms of the Tenancy Agreement was £760. The rental increased to £813.33 per month. The respondents are jointly and severally liable for the rental.
3. The full monthly rental has not been paid since July 2022. The second respondent paid the full rental until July 2022 in the hope that the first respondent would reimburse a one half share. Since August 2022 the second respondent has maintained payments of £400 per month, but the first respondent has not paid anything towards the rental. At the date the application was received, there were arrears of rental totalling £5,122.35 which is more than three months rental. At today's date there are arrears of rental totalling £6,760.09 which is more than 6 months rental.
4. The applicant served renewed notices to leave on the respondents on 21 June 2023 and then intimated an application to amend the grounds for eviction to introduce ground 12A of schedule 3 to the 2016 Act. That application is unopposed.
5. The application is amended and now proceeds under ground 12A of schedule 3 to the 2016 Act only.
6. Notice of the date of this hearing was served on both Respondents by sheriff officers on 11 August 2023.
7. On 07/03/2023 and 21/06/2023 the applicant served a notices to leave on the respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 28 June 2023, the applicant submitted an application to the tribunal.

8. The Applicant seeks recovery of possession of the Property in terms of Ground 12A of schedule 3 to the 2016 Act. The rental was more than 6 months in arrears at the date the application was submitted. Rental is now more than 8 months in arrears.

9. Neither respondent offers any resistance to this application.

10. There is no suggestion that the respondent is in arrears of rent either wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. It is not argued that it is unreasonable to grant an order for repossession of the property. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

### **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in in terms of Ground 12A of schedule 3 to the 2016 Act is established. Neither respondent offers any defence to the application. For these reasons, the Tribunal determined to grant an Order for possession.

### **Decision**

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 12A of schedule 3 to the 2016 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.**

**Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

P. Doyle

**12 September 2023**

**Legal Member**