

**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**

**Chamber Ref: FTS/HPC/EV/19/2167**

**Re: Property at 0/1 38 Banchory Avenue, Eastwood, Glasgow, G43 1EY (“the Property”)**

**Parties:**

**Mr Iain Pritchard, Mrs Elizabeth Anne Pritchard, 9 Welltrees Street, Maybole, KA19 7AW; 9 Welltrees Street, Maybole, KA19 7AW (“the Applicant”)**

**Mr James Travers, Ms Michelle Massey, 0/1, 38 Banchory Avenue, Eastwood, Glasgow, G43 1EY; 0/1 38 Banchory Avenue, Eastwood, Glasgow, G43 1EY (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted without a Hearing and issued an Eviction Order against the Respondent.**

**Background**

By application, received by the Tribunal on 10 July 2019, the Applicant sought an Eviction Order against the Respondent in terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Eviction Grounds relied on were Grounds 1 and 12 of Schedule 3

The application was accompanied by a copy of a tenancy agreement between the Parties, commencing on 26 March 2019 at a monthly rent of £595, with a deposit of £595 and copies of e-mail and text messages between the Parties. The Applicant stated in the application that £300 had been paid towards the deposit, but no rent whatsoever had been paid.

On 18 September 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written

representations by 9 October 2019. The Respondent made no written representations to the Tribunal.

### **Case Management Discussion**

A Case Management Discussion was held at Glasgow Tribunals Centre, 20 York Street, Glasgow on the morning of 22 October 2019. The Applicant was present. The Respondent was not present or represented. The Applicant told the Tribunal that two rental payments had been received since the date of the application, but the arrears currently stood at 4 months' rent. The Applicant asked the Tribunal to grant the application without a Hearing.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it would determine the application without a Hearing..

Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the Eviction Grounds named in Schedule 3 to the Act applies.

Ground 12 of Schedule 3 to the 2016 Act states that it is an Eviction Ground that the tenant has been in rent arrears for three or more consecutive months and that the Tribunal must find that Ground 12 applies if, at the beginning of the day on which the Tribunal first considers the application for an Eviction Order on its merits, the tenant is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, and the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.

The Tribunal was satisfied that the rent had been in arrears since 26 March 2019 and that, whilst rent payments had been made in August and September 2019, the arrears as at the date of the Case Management Discussion exceeded one month's rent. No evidence had been provided by the Respondent to indicate that the arrears were wholly or partly a consequence of delay or failure in the payment of a relevant benefit. Accordingly, the requirements of Ground 12 of Schedule 3 to the Act had been met and the Tribunal was bound to issue an Eviction Order.

Having determined the application under Ground 12 of Schedule 3 to the 2016 Act, it was not necessary for the Tribunal to consider further the application under Ground 1 of Schedule 3 to the Act.

### **Decision**

The Tribunal determined that the application should be granted without a Hearing and issued an Eviction Order against the Respondent.

### **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.

George Clark

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**Legal Member/Chair**

22 October 2019

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**Date**