

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

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**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 (hereinafter referred to as “the 2016 Act”) for an Eviction Order.**

**Chamber Ref: FTS/HPC/EV/19/2684**

**Re: Property: 8B Lothian Street, Bonnyrigg, Midlothian, EH19 3AD**

**Parties:**

**Mrs Angela Sinnet, 8C Lower Broomieknowe, Lasswade, Midlothian, EH18 1LW (“the Applicant”)**

**Miss Nicky Cameron, Mr Jason Tully, 8B Lothian Street, Bonnyrigg, Midlothian, EH19 3AD (“the Respondents”)**

**Tribunal Members:**

**Karen Kirk (Legal Member)**

**This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (hereinafter referred to as “the 2016 Act”) for an Eviction Order. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made.**

**Attendance and Representation**

**The Applicant was represented by Rettie & Co Ltd, 4 Jamaica Street, Edinburgh, EH3 6HH**

**K. Kirk**

**The Respondents did not attend the Tribunal and no written representations had been received.**

## **Preliminary Matters**

**There were no preliminary matters arising.**

## **Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondent under section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016.**

## **Matters Arising**

The Tribunal confirmed with the Applicant’s representation what knowledge if any they had of any entitlement to any relevant benefit. It was confirmed that the Respondents had indicated at the outset that payment of rent would be made by way of benefits but no further information or discussion regarding same had been received by the Applicant’s representative. The deposit had been paid by Midlothian Council but no information was obtained from them about any entitlement to a relevant benefit. No information regarding a relevant benefit had been referred to in any email correspondence between the parties and lodged with the Tribunal.

The Applicant’s representative made oral submissions in support of seeking grant of an order under section 51(1) of the 2016 on the grounds of rent arrears. It was confirmed the relevant notice in terms of Section 50 (1)(a) of the 2016 had been sent and proof of same was lodged in the Application. Submissions were made confirming the relevant notice to the Local Authority had been made with reference to same in the Application. Other than the deposit no payments under the tenancy had been paid since the tenancy commenced in April 2019 and no reasons for non payment had been given. No communication had been received regarding any claim made or progressing regarding a relevant benefit as stated. The Applicant’s representative confirmed further to the Tribunal that the company’s bank account had been checked on the morning of the Hearing to confirm no payments had been received. The statement of rent lodged dated 25<sup>th</sup> September 2019 remained correct. No payments had been received. As at 3<sup>rd</sup> October 2019 rent due was £3900.

## **Reasons for Decision and Findings in Fact**

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The**

Respondents had received notification of the proceedings and had not challenged same by written representations or attendance.

2. The Applicant sought an Order for Eviction on the grounds of rent arrears.
3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property.
4. The Tribunal was satisfied that the Respondents were in terms of Schedule 3, Part 3 Ground 12 of the 2016 Act at the beginning of the day the Tribunal first considered the application for an Eviction Order on its merits in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rents under the tenancy on that day and has been in arrears of any amount for a continuous period of up to 3 or more consecutive months.
5. Further the Tribunal was satisfied on a balance of probabilities and on the evidence before it that the said arrears are not wholly or partly due to delay or failure of payment of the relevant benefit.
6. The Tribunal found that the requirements of Ground 12 of Schedule 3 to the Act had been met.
7. Further the Tribunal was satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period.
8. The Tribunal noted the Local Authority under the 2016 had been notified.
9. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.

### 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.

K. Kirk

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Legal Member/Chair

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Date

3/10/19