



**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/18/3246**

**Re: Property at 102 Glencairn Street, Stevenston, KA20 3BT (“the Property”)**

**Parties:**

**Mr Alan Bowker, 6 Sorbie Road, Ardrossan, Ayrshire, KA22 8AQ (“the Applicant”)**

**Mr Alan Kusz, C/O 102 Glencairn Street, Stevenston, KA20 3BT (“the Respondent”)**

**Tribunal Members:**

**Martin McAllister (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (the 2016 Act) is met and grants an eviction order against the Respondent in respect of the Property.**

**Background**

**This is an application in respect of recovery of the Property in terms of Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and Section 51(1) of the 2016 Act. The tenancy in respect of the Property commenced on 11<sup>th</sup> July 2018 and the monthly rent stipulated in the Private Residential Tenancy Agreement was £375.**

**Case Management Discussion**

**The Applicant was present and the Respondent made no appearance.**

## **Preliminary Matters**

The purpose of a case management discussion was explained to the Applicant.

The Applicant indicated that he wanted to amend his application to delete any reference to it being under Ground 10 of Schedule 3 of the 2016 Act.

## **Findings in Fact**

1. The Private Residential Tenancy commenced on 11<sup>th</sup> July 2018.
2. The monthly rental in terms of the tenancy agreement was £375 per month.
3. The rent arrears as at 27<sup>th</sup> March 2019 are £2,625.

## **Reasons for Decision**

### **Documents before Tribunal**

1. Private Residential Tenancy Agreement dated 11<sup>th</sup> July 2018.
2. Copy Notice to Leave dated 1<sup>st</sup> December 2018.
3. Confirmation from North Ayrshire Council dated 6<sup>th</sup> December 2018 that it had received intimation from the Applicant that he intended to bring the tenancy to an end and required the Respondent to remove from the Property.
4. Copy bank statements of the Applicant .
5. Rent Statement as at 11<sup>th</sup> January 2018 showing rent arrears of £1,875.
6. Updated Rent Statement produced on 27<sup>th</sup> March 2019 showing rent arrears of £2625.
7. Title Sheet for the Property showing the Applicant to be the owner.
8. Sheriff Officer's Certificate of Service dated 5<sup>th</sup> March 2019.

The Applicant said that no rent had been paid by the Applicant since he had submitted the rent statement to 11<sup>th</sup> January 2019. He produced an updated statement showing the rent arrears to be £2,625. He said that, at the beginning of the tenancy, payment of rent was late and he understood that this was because of an issue the Respondent had with Universal Credit. He said that, when the last payment had been made on 30<sup>th</sup> August 2018, he understood that any issues had been resolved.

The Applicant said that there were no other documents he could lodge or witnesses he could lead to advance his application and he hoped that the matter could be determined at the case management discussion.

**Ground 12 of Schedule 3 to the 2016 Act states:**

- (1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.
- (2) The First-tier Tribunal must find that the ground named by subparagraph (1) applies if-

- (a) at the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, the tenant-
- (i) 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
  - (ii) 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.

I was satisfied that the respondent was in arrears of more than £375 and has been in arrears for a continuous period of three or more consecutive months. I was satisfied that the local authority had received intimation of the Applicant's intention to bring proceedings for eviction. I was satisfied with the rental statements and the evidence of the Applicant in regard to the arrears position. The Private Residential Tenancy Agreement contained the grounds of eviction and these included Ground 12. I was satisfied that the non payment of rent was not due to delays in payment of a relevant benefit and accepted what the Applicant said in this regard. I saw no reason not to determine the matter without a Hearing.

## Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (the 2016 Act) is met and grants an eviction order against the Respondent in respect of the Property.

## 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.

Mr Martin McAllister

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Legal Member/Chair

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Date

22/3/19