



**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/19/3585**

**Re: Property at 7 Kidlaw Close, Edinburgh, EH16 6FT (“the Property”)**

**Parties:**

**Home Group Limited, 2 Gosforth Park Way, Gosforth Business Park, Gosforth, NewcastleTyne and Wear, NE12 8ET (“the Applicant”)**

**Mr John Welsh, 7 Kidlaw Close, Edinburgh, EH16 6FT (“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 decided without a Hearing and issued an Eviction Order against the Respondent.**

**Background**

By application, received by the Tribunal on 6 November 2019, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 12 of Part I of Schedule 3 to the 2016 Act.

The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties commencing on 1 June 2018, at a monthly rent of £657.11, a Rent Statement showing arrears as at 1 November 2019 of £4,115.14 and a Notice to Leave, dated 25 September 2019, advising the Respondent of the Ground under which the Applicant proposed to apply to the Tribunal and that the application would not be made before 28 October 2019, with proof of service on the Respondent of the Notice to Leave, by sheriff officer, on 27 September 2019.

On 20 December 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 10 January 2020. The Respondent did not make any written representations to the Tribunal.

### **Case Management Discussion**

A Case Management Discussion was held at George House, 126 George Street, Edinburgh on the afternoon of 24 January 2020. The Applicant was represented by Kirsty Morrison of TC Young, solicitors, Glasgow. The Respondent was not present or represented. The Applicant's representative advised that no rental payments had been received since 5 July 2019 and the arrears now stood at £5,428.04 and asked the Tribunal to issue an Eviction Order without a Hearing.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Regulations") 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 to enable it to decide 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 Part I of Schedule 3 to the 2016 Act provides 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 arrears at the date of the Case Management Discussion exceeded one month and that the rent had been in arrears for more than three consecutive months. No evidence had been provided to indicate that the arrears were in any way a consequence of a delay or failure in payment of a relevant benefit. Accordingly, the requirements of Ground 12 had been met and the Tribunal was bound to issue an Eviction Order.

### **Decision**

The Tribunal determined that the application should be decided 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.

G Clark  
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Legal Member/Chair

24 January 2020  
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Date