



**Decision 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/23/1940**

**Re: Property at 119 Elphinstone Crescent, East Kilbride, G75 0PR (“the Property”)**

**Parties:**

**Mr Colin English, 94 Maxwellton Avenue, East Kilbride, G74 3DY (“the Applicant”)**

**Julie Stevenson, Mr Ronald Wright, 119 Elphinstone Crescent, East Kilbride, G75 0PR (“the Respondents”)**

**Tribunal Members:**

**Lesley Ward (Legal Member) and Ahsan Khan (Ordinary Member)**

**1. Decision (in absence of the Respondents)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for the eviction of the Respondents from the property at 119 Elphinstone Crescent East Kilbride G75 0PR be made on ground 12A of schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (substantial rent arrears) and it is reasonable in all of the circumstances that the eviction be granted.**

**Background**

**2. This was a case management discussion (‘CMD’) in connection with an Application for eviction in terms of rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Procedure Regulations 2016, (‘the rules’) on ground 12A (substantial rent arrears) of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (‘the Act’). The Applicant attended. The Respondents did not attend and were not represented.**

**3. The Tribunal had before it the following copy documents:**

- Application dated 12 June 2023.
- Land certificate.
- Landlord registration details.
- Private Residential Tenancy Agreement.
- Notice to leave dated 8 May 2023.
- Evidence of service of notice to leave.
- S11 notice and proof of service.
- Rent statement.
- Letter of authority form Mrs Lesley English.
- Execution of service by sheriff officers dated 18 August 2023.
- Email from Applicant dated 31 August 2023 with updated rent statement and submission regarding financial hardship.

#### **4. Preliminary matters**

The Respondent did not attend the CMD and was not represented. The Tribunal had sight of the execution of service by sheriff officers dated 18 August 2023 and was satisfied that they had received appropriate notice in terms of rule 24. The Tribunal was satisfied that it was fair to proceed in their absence in terms of rule 29.

#### **5. Discussion**

Regarding the pre-action requirements Mr English contacted the Respondents in January 2023 regarding the arrears. Mr Wright stated he had been temporarily laid off at work over the Christmas period. The Applicant offered to reduce the arrears from £1100 to £700 but the Respondents did not take up this offer and no further payments have been made. Thereafter the Applicant posted a rent statement to the Respondents each month and he sent text messages regarding the arrears. The Applicant did not send a formal letter in compliance with the pre-action requirements, but Mr Wright did confirm that he was contacting the CAB regarding the arrears.

The Applicant confirmed that both Respondents were in full time employment during the course of the tenancy and there was never any suggestion that either was entitled to housing benefit or Universal Credit in respect of the rent. As far as the Applicant was aware no one else resides in the house and there are no children.

As far as the Applicant's own circumstances are concerned, he has a mortgage for the property and the mortgage payments have increased on seven occasions in recent months. The rent arrears of over £4000 are causing him financial hardship.

#### **6. Findings in fact**

- The Applicant is the joint owner of the property and the registered landlord.
- The Applicant has the consent of the joint owner Mrs Lesley English to let the property and act as landlord.
- The parties entered into a private residential tenancy for let of the property from 3 March 2020.
- The agreed monthly rent was £330.
- Rent arrears began to accrue in June 2022.
- The Applicant served the Respondents with a valid notice to leave on 8 May 2023.
- The notice to leave expired on 9 June 2023.
- The rent arrears on 9 June 2023 were £2540.
- Rent arrears continue to accrue and at 20 September 2023 are £4044.

## **7. Reasons**

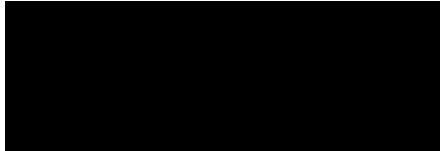
This is an undefended eviction Application. The Tribunal was satisfied that the Respondent had received a valid notice to leave with the correct 28 days' notice, given the notice was signed for on 10 May 2023. The tribunal was satisfied that the notice to leave gave notice that the Respondents have substantial rent arrears in excess of six months rental payments. Rent arrears have continued to accrue since the notice was served and there are now more than twelve months of arrears. This is causing financial hardship for the Applicant as he has to pay the mortgage and other outgoings for the property. The tribunal was satisfied that the rent arrears were not due to a delay or failure in payment of a relevant benefit. The Tribunal was satisfied that the procedure has been fair. The Tribunal was satisfied that it is reasonable in all of the circumstances to grant the eviction.

## **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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.**

**Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.**



**Lesley Anne Ward**

**19 September 2023**

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**Legal Member**

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**Date**