

**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 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/19/0034**

**Re: Property at 72 Loudoun Avenue, Kilmarnock, KA1 3RZ ("the Property")**

**Parties:**

**Mr Jim Anderson, 47 Whiteside Drive, Monkton, KA9 2PU ("the Applicant")**

**Mr Robert Duffy, 72 Loudoun Avenue, Kilmarnock, KA1 3RZ ("the Respondent")**

**Tribunal Members:**

**Virgil Crawford (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that**

**BACKGROUND**

1. By lease dated 6 June 2018 the Applicant leased the Property to the Respondent. The lease is a Private Residential Tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016 (the "2016 Act");
2. The rent payable was £420.00 per month, payable on the 6<sup>th</sup> day of each month and in advance;
3. No deposit was payable in terms of the lease;
4. The Applicant presented 2 separate applications to the Tribunal seeking an order for payment of rent arrears and an order for eviction, the applications being received on 7 January 2019;

## **THE CASE MANAGEMENT DISCUSSION**

5. The Applicant was present and also represented by Tom Telfer of Letts Agree Sales and Lettings Ltd, Kilmarnock;
6. The Respondent failed to attend. The Tribunal was in receipt of an execution of service by sheriff officers confirming that the place, date and time of the Case Management Discussion had been intimated to the Respondent, together with a copy of the case papers. In the circumstances the Tribunal, being satisfied in terms of Rule 24 of The First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (the "FTT Rules") that the Respondent had received reasonable notice of the same determined that it was appropriate to proceed in accordance with Rule 29 of the FTT Rules;
7. A notice to leave had been served upon the Respondent requiring him to leave the Property due to rent arrears. The Tribunal was advised that he remained in occupation of the Property;
8. The Tribunal was advised that the Respondent had failed to pay any rent since October 2018, the last payment received being on 6 September 2018. As at the date of the Case Management Discussion the arrears amounted to £2,376.16;

## **FINDINGS IN FACT**

9. The Tribunal made the following findings in fact:-
  - a) By lease dated 6 June 2018 the Applicant leased the Property to the Respondent. The lease is a Private Residential Tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016 (the "2016 Act");
  - b) The rent payable was £420.00 per month, payable on the 6<sup>th</sup> day of each month and in advance;
  - c) The last payment of rent was on 6 September 2018. No payments had been received for October, November, December 2018, nor January, February or March 2019;
  - d) As at the date of the Case Management Discussion rent was in arrears in the sum of £2,376.16;
  - e) The Applicant had served a notice to leave on the Respondent;
  - f) The Applicant had served a notice upon the local authority in terms of s11 of the Homelessness etc. (Scotland) Act 2003;
  - g) As at the date the application was received the Respondent had been in arrears of rent of an amount equal to or greater than one month's rent and had been in arrears for three or more consecutive months;
  - h) The arrears were not as a consequence of any delay or failure in payment of a relevant benefit

## **DECISION**

The Tribunal grants an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under Ground 12 of Schedule 3 of said Act

The Order is not to be executed prior to 12 noon on 1 May 2019

## **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.

# **V Crawford**

**25 March 2019**

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**Legal Member/Chair**

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**Date**