

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



**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/19/2992**

**Re: Property at 8-3 Croft Road, Hawick, TD9 9RD (“the Property”)**

**Parties:**

**Mrs Elaine Kellington, c/o Catford Investments LTD, 1 North Bridge Street, Hawick, TD9 9BD (“the Applicant”)**

**Miss Margaret Mackie, Mr Stuart Middleton, 8-3 Croft Road, Hawick, TD9 9RD (“the Respondents”)**

**Tribunal Members:**

**Maurice O'Carroll (Legal Member)**

### **Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Possession of the Property should be granted to the Applicant.**

### **Background**

1. A Case Management Discussion (“CMD”) was held at Heart of Hawick Tower, Hawick on 11 December 2019 at 2pm. Ms Sharon Kewin appeared on behalf of the Applicant. The Respondents appeared in person.

### **Proceedings at CMD**

2. Ms Kewin outlined the main terms of the lease. She demonstrated that ground 12 of Schedule 3 to the Act had been satisfied. She also demonstrated that service of a Notice to Leave had been validly effected on the Respondents on 28 August 2019.
3. The Respondents accepted that they require to be evicted and consented to the Order being granted. They have secured alternative accommodation. They simply wished to ensure that they would have sufficient time to make necessary arrangements before being evicted from the Property.

4. The Chairman indicated that in any event, as a matter of law, the eviction could not take place until 30 days from the date of the Tribunal's Order. The Respondents indicated that such a period would provide them with sufficient time. No further discussion was therefore necessary.

### **Findings in fact**

5. The parties entered into a rental agreement which commenced on 11 January 2018. The rent payable was £368.20 every four weeks.
6. The Respondents are in receipt of Housing Benefit in the sum of £323.80. They required to make up the remainder of the rent from their own funds.
7. The schedule of payments presented to the Tribunal by the Applicant demonstrated that throughout the tenancy, the Respondents had been in arrears of rent. By the time of the hearing the rent arrears amounted to £656.67.
8. Despite the rent arrears being relatively low, the Applicant wishes to insist on her right to evict. The necessary grounds for eviction have been made out by the Applicant.
9. Service of the Notice to Leave was validly made on both Respondents by Sheriff Officers on 28 August 2019.
10. Ms Kewin offered to assist the Respondents with transferring their Housing Benefit from the Property to the new rental premises now obtained by them.

### **Decision**

11. In light of the above findings in fact the Tribunal granted the Order for Possession sought by the Applicant. For the avoidance of doubt, the Order may not be enforced prior to 11 January 2020.

### **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.**

M O'Carroll

*11 December 2019*

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**Legal Member/Chair**

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**Date**