

**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) in terms of Rule 17 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) in respect of an application under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)**

**Chamber Ref: FTS/HPC/EV/22/1856**

**Re: Property at 2/1, 11, Colinton Place, Dundee, DD2 2BX (“the Property”)**

**The Parties:**

**Mrs. Maggie Picken and Mr. John Picken, both residing at Priorletham, St. Andrews, Fife KY16 8NP (“the Applicants”) per their agents, Pavillion Properties, 86, Bell Street, Dundee DD1 1HN (“the Applicants’ Agents”)**

**Mr. John Walton residing at the Property (“the Respondent”)**

**Tribunal Members:**

**Karen Moore (Legal Member) and Gordon Laurie (Ordinary Member)**

**Decision (in absence of both Parties)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it is not reasonable to grant the Order sought and so dismissed the Application without Order.**

1. By application received on 26 October 2022 (“the Application”), the Applicants’ Agents applied to the Tribunal for an Order for possession of the Property based on Ground 12, that the tenant is in rent arrears over three consecutive months, of Schedule 3 to the Act. The Application comprised copy Notice to Leave dated 12 May 2022, copy private residential tenancy agreement between the Parties with an entry date of 30 November 2020, a copy letter purporting to be in respect of the pre-action requirement and copy notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Dundee City Council, being the relevant local authority. The Application was accepted by the Tribunal and a Case Management Discussion (the “CMD”) was fixed for 27 January 2023 at 14.00 by telephone conference. The CMD was intimated to the Parties

and, in particular, was served on the Respondent by sheriff officer on 7 December 2022.

#### **CMD**

2. The CMD took place on 27 January 2023 at 14.00 by telephone. Neither Party took part and neither Party was represented. Neither Party submitted written representations.

#### **Decision and Reasons for Decision**

3. The issue for the Tribunal is to determine if the statutory ground is established and if it is reasonable to grant the Order. On the information before it, the Tribunal could not be certain that the statutory ground is established and it is reasonable to grant the Order. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "*may do anything at a case management discussion .....including making a decision*". Accordingly, the Tribunal dismissed the Application and made no Order.

#### **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.**

**Karen Moore**

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**Legal Member/Chair**

**27 January 2023**

**Date**