



**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/19/3970**

**Re: Property at 29 Clifden Blue Court, Dundee, DD4 0LR (“the Property”)**

**Parties:**

**Mr Jeremy Edwards, Maibe Cottage, Dumfries, DG2 8AH (“the Applicant”)**

**Mr Gary Greenwood, 29 Clifden Blue Court, Dundee, DD4 0LR (“the Respondent”)**

**Tribunal Members:**

**Rory Cowan (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted.**

- Background

The case called for a continued Case Management Discussion (CMD) by way of conference call on 14 October 2020. The Applicant was not in attendance but was represented by a Mr Baxter of Pavillion Properties. The Respondent did not attend but was represented by a Ms Horsman of Dundee North Law Centre. This application previously called by way of CMDs on 15 July 2020 and 26 August 2020 and Notes of those hearings were issued.

The Applicant seeks an Eviction Order relative to the Property as a result of rent arrears and in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (the 2016 Act).

- The Case Management Discussion

The CMD on 26 August 2020 had been continued to allow Ms Horsman to take instructions from the Respondent in relation to the Notice to Leave (NTL) previously lodged by Mr Baxter in support of this application. The said NTL was dated 8 November 2019 and had been emailed to the Respondent on the same date. The date of service of the NTL predated the Coronavirus (Scotland) Act 2020 and as such was not subject to the temporary amendments made by it to the Private Housing (Tenancies)(Scotland) Act 2016.

Ms Horsman confirmed that she had had the opportunity to discuss matters with the Respondent and take his instructions. She confirmed that she accepted that the Respondent was in arrears as described by Mr Baxter (£5,650) and that he has been in arrears in excess of 3 consecutive months. The rent applicable to the underlying tenancy was £350 per calendar month. She confirmed that she had no objection to the manner of service of the NTL and accepted that it had been “appropriately served” and that the Tribunal had no discretion but to grant an Eviction Order.

- Findings in Fact and Law

- 1) The Applicant and Respondent entered into a Private Residential Tenancy that commenced on 8 February 2019.
- 2) The rent due per the tenancy is £350 per calendar month.
- 3) As at 14 October 2020 the arrears of rent are £5,650.
- 4) Clause 4 of the said tenancy agreement contains a consent to electronic transmission of documents including Notices to Leave.
- 5) On 8 November 2019 the Applicant sent a Notice to Leave to the Respondent by email citing Ground 12 of Schedule 3 to the Private Housing (Tenancies)(Scotland) Act 2016 and confirmed that proceedings would not be raised before 9 December 2019.
- 6) The Notice to Leave was in the prescribed format.
- 7) The provisions of paragraph 12(2) of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 have been met and the Applicant is entitled to an Eviction Order as sought.

- Reasons for Decision

It was accepted that the Respondent was in substantial arrears and had been for a period in excess of 3 consecutive months. The NTL had been served in accordance with the requirements of the Private Housing (Tenancies)(Scotland) Act 2016. As at the date of the continued CMD, the arrears were in excess of 1 months rent and as such the Tribunal had no discretion and had to grant the eviction order.

- Decision

The Tribunal decided to grant an Eviction Order against the Respondent relative to the Property.

## 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.

# R Cowan

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Legal Member/Chair

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Date 14 October 2020