



**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/20/0351**

**Re: Property at 45 Glenhove Road, Cumbernauld, G67 2LQ (“the Property”)**

**Parties:**

**Ms Gillian Hunter, 2a Westmount Park, Newtonards, County Down (“the Applicant”)**

**Mr Gordon Robbie, Ms Leanne Milne, 45 Glenhove Road, Cumbernauld, G67 2LQ; 45 Glenhove Road, Cumbernauld, G67 2LQ (“the Respondent”)**

**Tribunal Members:**

**Alison Kelly (Legal Member)**

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

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

**Background**

The Applicant lodged an application with the Tribunal on 31<sup>st</sup> January 2020 under Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017, seeking an order for eviction under Ground 12 of Schedule 3 of the **Private Housing (Tenancies)(Scotland) Act 2016**.

Lodged with the Application were:

1. Copy Tenancy Agreement
2. Copy Notice To Leave for each Respondent with proof of service
3. Section 11 Notice

A Case Management Discussion (“CMD”) was scheduled for 23<sup>rd</sup> March 2020. However, this CMD was postponed due to the Covid 19 pandemic.

A fresh CMD was fixed for 9<sup>th</sup> July 2020 at 10am.

### **Case Management Discussion**

The CMD took place by teleconference. The Legal Member instructed the clerk, Miss Forbes, to wait until 10.05 before beginning the CMD, which was to allow the parties time to dial in.

Miss McAtier of Anderson Strathearn, Solicitors, dialled in on behalf of the Applicant. No one dialled in on behalf of the Respondents. The Legal Member was satisfied that the Respondents had received notification of the date and the dial in details, and began the CMD.

Miss McAtier advised the Tribunal that the Respondents still resided in the property. She produced an up to date rent statement to show the current position. She moved that the application be granted as Ground 12 had been satisfied. The arrears at the time the Application was made were £3003.97, and the monthly rental was £495. This was in excess of 6 months’ rent. The current figure outstanding is £3373.97, which is obviously a higher figure.

### **Findings In Fact**

1. The parties entered in to a Private Residential Tenancy agreement in relation to the property, dated 31st October 2018;
2. The rent was £495 per calendar month;
3. The arrears when the Application was made were £3003.97;
4. The arrears are now higher.

### **Reasons For Decision**

Ground 12 states as follows:

*12(1)It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.*

*(2)The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if—*

*(a)at the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, the tenant—*

*(i)is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month’s rent under the tenancy on that day, and*

*(ii) has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, and*

*(b) the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.*

*(3) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—*

*(a) for three or more consecutive months the tenant has been in arrears of rent, and*

*(b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.*

*(4) In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.*

*(5) For the purposes of this paragraph—*

*(a) references to a relevant benefit are to—*

*(i) a rent allowance or rent rebate under the [Housing Benefit \(General\) Regulations 1987 \(S.I. 1987/1971\)](#),*

*(ii) a payment on account awarded under regulation 91 of those Regulations,*

*(iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,*

*(iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,*

*(b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.*

The Tribunal was satisfied that the ground had been met and it was entitled to grant the order for 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.**



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**Legal Member/Chair**

**10<sup>th</sup> July 2020**

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**Date**