



**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/20/1671**

**Re: Property at 11 Reid Avenue, Dalry, KA24 4BH (“the Property”)**

**Parties:**

**Mr Leslie Crawford, 57 Thornbrooke, Ahoghill, Ballymena, BT42 1PZ (“the Applicant”)**

**Mr David Woods, 11 Reid Avenue, Dalry, KA24 4BH (“the Respondent”)**

**Tribunal Members:**

**Graham Harding (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property**

**Background**

1. By application dated 7 August 2020 the Applicant’s representatives Mackenzie Way, Saltcoats, Ayrshire applied to the Tribunal for an order for the eviction of the Respondent from the property under ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”). The Applicant’s representatives submitted a copy of the tenancy agreement, Notice to Leave, rent statement and Section 11 Notice in support of the application.
2. By Notice of Acceptance dated 18 September a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion was assigned.
3. Intimation of the Case Management Discussion was given to the Applicant’s representatives by post on 24 September 2020 and to the Respondent by Sheriff Officers on 25 September 2020.

## **The Case Management Discussion**

4. A Case Management Discussion was held by teleconference on 29 October 2020. The Applicant was represented by Ms Jane Parks. The Respondent did not attend and was not represented. The Tribunal being satisfied that intimation of the Case Management discussion having been given to the Respondent determined to proceed in his absence.
5. Ms Parks referred the Tribunal to the documents submitted with the application and confirmed the parties had entered into a Private Residential Tenancy that had commenced on 15 November 2019 at a monthly rent of £400 to be paid at the rate of £100.00 per week.
6. Ms Parks referred the Tribunal to the rent statement submitted with the application and explained that the Respondent had paid an initial rent of £100.00 together with a deposit of £10.00 but had made no payments thereafter. The rent now due amounted to £4700.00.
7. Ms Parks referred the Tribunal to the Notice to Leave which had been served by Sheriff Officers on 13 March 2020.
8. Ms Parks referred the Tribunal to the Section 11 Notice which had been sent to North Ayrshire Council by email on 7 August 2020.
9. Ms Parks asked the Tribunal to grant the order for the eviction of the Respondent from the property.

## **Findings in Fact**

10. The parties entered into a Private Residential Tenancy that commenced on 15 November 2020. The monthly rent was £400.00.
11. At the date of serving a Notice to Leave on 13 March 2020 the Respondent had accrued rent due of £1500.00.
12. Sheriff Officers served the Notice to Leave on the Respondent on 13 March 2020.
13. At the date of the Case Management Discussion the Respondent was due rent amounting to £4700.00.
14. The Applicant's representatives intimated the proceedings to North Ayrshire council by way of a Section 11 Notice on 7 August 2020.

## **Reasons for Decision**

15. The Tribunal was satisfied from the documents submitted and Ms Parks' oral representations that the parties had entered into a valid Private Residential

Tenancy that commenced on 15 November 2019. The Tribunal was also satisfied that the Respondent had only made one rental payment of £100.00 at the commencement of the tenancy together with a payment of £10.00 in respect of a deposit. Thereafter the Respondent had made no further payments.

16. The Tribunal was satisfied that a valid Notice to Leave had been served on the Respondent by Sheriff Officers on 13 March 2020 and that intimation of the proceedings had been given to the local Authority.

17. The Tribunal was satisfied that the Respondent was in arrears of rent for a period of three months at the date of service of the Notice to Leave and that there was more than the equivalent of one month's rent due as at the date of the Case Management discussion. Accordingly, in terms of Ground 122 of Schedule 3 of the 2016 Act there was a mandatory ground for the eviction of the Respondent established. As the Notice to Leave was served before the coming into force of the Coronavirus (Scotland) Act 2020 the provisions of that Act did not apply.

### **Decision**

18. The Tribunal having carefully considered the documentary and oral submissions finds the Applicant entitled to an order for the eviction of the Respondent from 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.**

**Graham Harding  
Legal Member/Chair**

**29 October 2020  
Date**