



**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/22/1040**

**Re: Property at 25A West High Street, Inverurie, Aberdeenshire, AB51 3SA ("the Property")**

**Parties:**

**Mr Graham King and Fiona King, Roadside, Kinmundy, Newmacher, Aberdeen, AB21 7PQ ("the Applicants")**

**Miss Lisa Henson, 25A West High Street, Inverurie, Aberdeenshire, AB51 3SA ("the Respondent")**

**Tribunal Members:**

**Gillian Buchanan (Legal Member) and David Fotheringham (Ordinary Member)**

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

At the Case Management Discussion ("CMD") which took place by telephone conference on 18 January 2023 the Applicants' representative, Mr David Gray of Gilson Gray was in attendance. The Respondent was not in attendance nor was she represented.

The CMD was intimated to the Respondent's representative Ms Linzi Catto, Inverurie Family Resource Centre by email on 1 December 2022. The tribunal was therefore satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Applicant in terms of Rule 29.

Prior to the CMD the Tribunal had received an email from Mr Gray for the Applicants dated 13 January 2023 enclosing an updated Rent Statement which showed an arrears balance of £7,100.

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that:-**

## **Background**

Previously at a CMD on 29 June 2022 in the absence of the Respondent the Tribunal made an order for the Respondent's eviction from the Property. The Respondent subsequently made an application for recall of that determination and that application was granted by the Tribunal on 21 July 2022 with a fresh CMD being assigned.

A CMD had thereafter taken place on 15 November 2022 attended by the Applicant's representative, Mr Snop of Gilson Gray, and the Respondent together with her representative, Ms Catto.

That CMD had been adjourned for the following reasons, namely:-

1. To allow the sum of £5,500 to be paid to the Applicants immediately,
2. To enable the Adults with Disability and Child Payments applications for the Respondent to be processed by the DWP,
3. To allow the ongoing payment of rent to be met in full from 30 November 2022 onwards, and
4. To allow the Respondent to put together proposals to clear any outstanding rent arrears that may still be due.

## **The CMD**

At the CMD Mr Gray made the following submissions for the Applicants:-

1. That on 7 December 2022 his firm contacted Ms Catto for an update on the position and received a response that she would be in touch when she had something to report. Nothing more has been heard and no further enquiries have been made.
2. The payment of £5,500 made on 15 November 2022 and the payments of £700 made on each of 1 December and 30 December 2022 were from the Respondent to the Applicants directly.
3. The Applicants seek an eviction order.
4. There is no information from the Respondents as to whether funds will be available to clear the arrears balance of £7,100 and there has been no further communications from Ms Catto. The Respondent has made no contact with the Applicants directly.
5. Whilst the Applicants were pleased to receive the payment of £5,500 and the rental payments on 1 and 30 December 2022 which helped clear some of their legal costs they were concerned at the position going forwards.

## **Findings in Fact**

- i. The Applicants lease the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("PRT") that commenced on 1 May 2021.
- ii. The rent agreed to be payable under the PRT was £700 per calendar month payable in advance and a deposit was also paid by the Respondent to the Applicants in a sum of £700.
- iii. On 28 September 2021, the Applicants' representative served on the Respondent by Sheriff Officer a Notice to Leave requiring that the Respondent remove from the Property by 29 March 2022 on the basis that rent arrears had accrued over three consecutive months.
- iv. On 19 November 2021 and on 16 February 2022 the Applicants' representative wrote to the Respondent by recorded delivery post and email regarding the rent arrears accrued and signposting the Respondent to sources of financial help and support.

- v. On 8 April 2022 the Applicants' agent served on Aberdeenshire Council by email a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- vi. As at the date of the CMD on 18 January 2022 the rent arrears outstanding and due by the Respondent to the Applicants stood at £7,100.
- vii. The Respondent continues to live in the Property.
- viii. The Applicants seek an eviction order.
- ix. It is reasonable that an eviction order be granted.

### **Reasons for Decision**

Neither the Respondent nor her representative submitted any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicants within the application papers and orally on their behalf at the CMD was not challenged and was accepted by the Tribunal.

The Tribunal had expected to be addressed on the progress of the Adults with Disability and Child Payments applications for the Respondent and to receive proposals from the Respondent to clear the outstanding rent arrears due. No details were provided.

The Tribunal considered whether or not it would be reasonable to grant an eviction order in the circumstances and determined that it is reasonable to grant an eviction order under Ground 5 of Schedule 3 of the 2016 Act.

### **Decision**

The Tribunal grants an order for the Respondent's eviction 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.**

Gillian Buchanan

Legal Member/Chair

**18 January 2023**  
**Date**