



**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/22/3147**

**Re: Property at 6 Drumhar Court, Perth, PH1 5SG (“the Property”)**

**Parties:**

**Dame Ann Heron Gloag, Beaufort Castle, Beaufort, Beauly, Inverness-shire, IV4 7BB (“the Applicant”)**

**Mr Graham Thomson, 6 Drumhar Court, Perth, PH1 5SG (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Ms S Brydon (Ordinary Member)**

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

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

**Background**

1. By application received 31<sup>st</sup> August 2022 and made under Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Rules”), the Applicant applied for an eviction order under ground 12. The Applicant’s representative lodged a rent statement, a private residential tenancy agreement commencing on 4<sup>th</sup> August 2020, pre-action requirement letter dated 10<sup>th</sup> June 2022, section 11 notice with proof of service, and Notice to Leave dated and served on 1<sup>st</sup> July 2022, with proof of service.
2. Notification of the application and the forthcoming CMD was made upon the Respondent by Sheriff Officer on 11<sup>th</sup> November 2022.
3. By email dated 12<sup>th</sup> December 2022, the Applicant’s representative lodged an updated rent statement showing rent arrears in the sum of £11,960.

## **The Case Management Discussion**

4. A CMD took place by telephone conference on 13<sup>th</sup> December 2022. Neither party was in attendance. The Applicant was represented by Mr Alexander Robertson, Solicitor.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent
6. Mr Robertson said there had been no recent contact from the Respondent. The Applicant was insisting upon an eviction order. Mr Robertson submitted that a Notice to Leave had been served. The arrears at the time of service of the Notice were £9,050, with a monthly rent of £485. The arrears are now £11,960. The pre-action requirements set out in The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 had been complied with by letter dated 10<sup>th</sup> June 2022, and the section 11 notice had been served upon the local authority.
7. In terms of reasonableness, Mr Robertson submitted that the Respondent has refused to engage in a meaningful way. Two meetings had been scheduled to discuss the situation and he had not attended. The Respondent is living in the Property and paying no rent. The arrears are significant. The Respondent has no dependents, and, as far as the Applicant is aware, is not in receipt of benefits. Mr Robertson was unaware if he was in employment or had any health issues. The pre-action requirements had been complied with.
8. The Tribunal adjourned to consider its decision.

## **Findings in Fact and Law**

9.
  - (i) Parties entered into a private residential tenancy agreement in respect of the Property on 4<sup>th</sup> August 2020.
  - (ii) The Respondent has been in arrears of rent for three or more consecutive months.
  - (iii) At the date of the CMD, the Respondent was in arrears of rent by an amount greater than the amount payable as one month's rent.
  - (iv) The Respondent's rent arrears are not due to a delay or failure in the payment of a relevant benefit.
  - (v) The pre-action requirements for private residential tenancies have been met.
  - (vi) It is reasonable to grant an eviction order.

## Reasons for Decision

10. Ground 12 of Schedule 3 of the Act provides that it is an eviction ground if the tenant has been in rent arrears for three or more consecutive months. The Tribunal must find that this applies if (1) at the beginning of the day on which the Tribunal first considers the application for an eviction order, the tenant 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; (2) the tenant 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 (3) 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.
11. The Tribunal is satisfied that Ground 12 has been established.
12. The Tribunal is satisfied that the necessary Notice to Leave has been correctly issued to the Respondent in terms of the Act.
13. No evidence was provided to the Tribunal to show that the arrears were due to a delay or failure in the payment of a relevant benefit. The pre-action requirements were met.
14. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the fact that the arrears were considerable, and that a *prima facie* case in respect of reasonableness had been made out on behalf of the Applicant.
15. The Respondent was not in attendance to put forward any reasons why it would not be reasonable to grant the order, despite having been notified of the application and the CMD.
16. The Tribunal took into account the representations made regarding the circumstances of both parties. In all the circumstances, the Tribunal considered it reasonable to grant the order sought.

## Decision

17. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 16<sup>th</sup> January 2023

## 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.**

**Helen Forbes**

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**Legal Member/Chair**

**13<sup>th</sup> December 2022**  
**Date**