



**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 (“The Act”)**

**Chamber Ref: FTS/HPC/EV/22/3153**

**Re: Property at 34 St Clair Street, Aberdeen, AB24 5AJ (“the Property”)**

**Parties:**

**Ms Claire Johnston, 12 Eday Court, Aberdeen, AB15 6WG (“the Applicant”)**

**Miss Piper Cult, 34 St Clair Street, Aberdeen, AB24 5AJ (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Helen Barclay (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made an Eviction Order.**

**Background**

The Applicant seeks an Eviction Order under Ground 12 of Schedule 3 of the Act in that it is said that the Respondent is in arrears of rent of a sum equivalent to at least one month’s worth of rent and has been so for a period of in excess of three months. The Application is accompanied by a copy of the tenancy agreement between the parties, a copy of the notice to leave and proof of it having been served on the Respondent, evidence of compliance with the *Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020*, evidence of compliance with s11 of the Homelessness (etc) (Scotland) Act 2003 together with Rent statements.

## **The Case Management Discussion**

The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 14 December 2022. The Application called alongside a related Application in respect of a Payment Order for rent arrears between the parties. The Applicant was in attendance alongside Ms Fenton as her Representative. There was no appearance by or on behalf of the Respondent. The Application and information about how to join the conference call had been competently served on the Respondent by Sheriff Officers and so the Tribunal decided to proceed in the Respondent's absence.

Having considered the Application and having heard from Ms Fenton, the Tribunal made the following findings in fact.

### **Findings in Fact**

- I. *The Applicant let the Property to the Respondent on a Private Residential Tenancy which commenced on 12 March 2021;*
- II. *The contractual monthly rent was £400.00;*
- III. *The Respondent fell into rent arrears;*
- IV. *On 20 July 2022 the Applicant competently served a Notice to Leave on the Respondent in terms of Ground 12 of Schedule 3 of the Act which provided the Respondent with the correct 28 day period of notice to leave the Property;*
- V. *Ground 12 of Schedule 3 of the Act was established as at the date of service of the notice;*
- VI. *The Respondent failed to vacate the Property by the date required in the Notice to Leave;*
- VII. *Ground 12 of Schedule 3 of the Act remains established as at today's date;*
- VIII. *The Applicant has complied with Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 and s11 of the Homelessness (etc) (Scotland) Act 2003;*
- IX. *The Respondent has already moved out of the Property and removed her belongings albeit she has not returned the keys;*
- X. *It is reasonable to grant the Eviction Order.*

## **Reasons for Decision**

Having made the above findings in fact, the Tribunal decided to grant the Application and made an Eviction Order.

## **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.

Andrew McLaughlin

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Legal Member/Chair

14 December 2022

Date