



**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/22/4424**

**Re: Property at 97 Colquhoun Street, Stirling, FK7 7PF (“the Property”)**

**Parties:**

**Mr Mike Pantony, 3 St Thomas's Place, Stirling, FK7 9LX (“the Applicant”)**

**Mr Gregor Robertson, 97 Colquhoun Street, Stirling, FK7 7PF (“the Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member) and Elaine Munroe (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.**

**Background**

1. An application was received by the Housing and Property Chamber dated 15<sup>th</sup> December 2022. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to ground 12A of the Private Housing (Tenancies) Act 2016 as amended by the Cost of Living (Tenant Protection)(Scotland) Act 2022.
2. On 13<sup>th</sup> February 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 20<sup>th</sup> March 2023 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 6<sup>th</sup> March 2023.

3. On 14<sup>th</sup> February 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 14<sup>th</sup> February 2023.

#### The Case Management Discussion

4. A CMD was held on 20<sup>th</sup> March 2023 at 2pm by teleconferencing. The Applicant was present and represented himself. The Respondent was not present and was not represented. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make representations in advance of the CMD.
5. The Applicant said that there has been no contact from the Respondent since he last paid which was in March or April 2022. The arrears currently are £7800.
6. The Applicant said that the Respondent was a single person. He said that the Respondent did get into arrears before but had cleared them. The Applicant said that the Respondent had told him that he had a big job and was able to pay it off. The Applicant does not know if the Respondent is in receipt of state benefits or not. He contacted the DWP but they refused to confirm or deny if any benefits were being claimed by the Respondent.
7. The Applicant said that notice had been given to the Respondent for entry to the Property for essential maintenance. However, when entry to the Property had been tried the Property was found to have the key in the lock to prevent the Applicant gaining entering.
8. The Applicant said that he had issued the Pre Action Requirement letters along with the government guidance but has had no response to the letters.

#### Findings and reason for decision

9. A Private Rented Tenancy Agreement commenced 7<sup>th</sup> August 2020.
10. The Respondent persistently failed to pay his rent charge of £650 per month. The rent payments are due to be paid on 7<sup>th</sup> day of each month.
11. The Respondent has substantial rent arrears of more than 6 months rent. The arrears were £7800 as at the date of the CMD.
12. There are no known outstanding Universal Credit Housing Element issues.
13. The Respondent has refused entry to allow essential maintenance to be done.

## Decision

14. The Tribunal considered that there were no issues of reasonableness preventing an order being granted. The Tribunal found that ground 12A has been established and granted an order in favour of the Applicant.

## **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.**

G Miller

20<sup>th</sup> March 2023

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Legal Member/Chair

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Date