



**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/22/4451**

**Re: Property at 40 Annfield Gardens, Sirling, FK8 2BJ (“the Property”)**

**Parties:**

**Mr Stuart Ferguson, C/O Russel and Aitken (Falkirk and Alloa) Ltd, Unit 5 The Courtyard, Callendar Business Park, Falkirk, FK1 1XR (“the Applicant”)**

**Mr Reice Dawson, 40 Annfield Gardens, Stirling, FK8 2BJ (“the Respondent”)**

**Tribunal Members:**

**Nairn Young (Legal Member) and Elizabeth Currie (Ordinary Member)**

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

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

- Background
1. This is an application for an order for eviction against the Respondent, who occupies the Property in terms of a private residential tenancy agreement with the Applicant. It called for a case management discussion (‘CMD’) at 2pm on 12 May 2023, by teleconference. The Applicant was represented on the call by Mr Bonnar of Russel + Aitken (Falkirk + Alloa) Ltd, solicitors. The Respondent was not on the call in person and was not represented.
  2. The Respondent was served a copy of the application and notification of the time of the CMD by sheriff officers on 6 April 2023. The Tribunal was satisfied

that he was aware of the CMD and had chosen not to attend: and that it was therefore fair to proceed in his absence.

- Findings in Fact

The application is undefended, but the Tribunal considered the following to be the relevant facts as set out in the application:

3. The Respondent rents the Property from the Applicant in terms of a private residential tenancy agreement with a start date of 24 June 2022.
4. In terms of that agreement, rent of £825 is due on the 24<sup>th</sup> day of each month.
5. The Respondent paid no rent on 24 July 2022 and has not paid any rent since that date.
6. It is also a term of the tenancy agreement that the Respondent should not sublet the Property, take in lodgers, or otherwise allow anyone else to occupy or take possession of the Property, without prior permission of the Applicant.
7. The Respondent has on various occasions had other persons staying at the Property, without seeking permission, or permission being granted.
8. On more than one occasion during the course of the tenancy the Respondent's dogs have behaved in a threatening manner towards neighbours, placing them in a state of fear and alarm.
9. The dogs regularly bark loudly, including during the night.
10. On 2 November 2022, the Applicant served a notice to leave on the Respondent by sheriff officers, indicating that he intended to rely on grounds 11, 12 and 14 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 ('the Act').

11. The Applicant did not complete the pre-action protocol prescribed by the Scottish Ministers in relation to eviction founded on rent arrears.

12. The Applicant did attempt to contact the Respondent to discuss non-payment and the other grounds relied on throughout the tenancy, but never received any reply.

- Reasons for Decision

13. Ground 11, 12 and 14 are made out on the facts above. There was no information presented to suggest that it was not reasonable to evict the Applicant on these grounds, whether singly or cumulatively. In particular, the Tribunal was satisfied that the failure to complete the pre-action protocol was not fatal to the reliance on ground 12, given that attempts were being made to engage with the Respondent, but that he never responded to any of them. Against the background of his complete failure to pay any rent, aside from the very first payment, and the other issues with his occupation, it would have been extremely unlikely that any formal use of the protocol would have made any difference to the outcome in this case.

- Decision

Eviction order granted.

## **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.**

**Nairn Young**

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**Legal Member/Chair**

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**Date: 12/05/2023**