



**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**

Reference number: FTS/HPC/EV/20/0914

Order granted on 24 August 2020 in absence of the Respondent

Property: 85 TR Dens Road, Dundee DD3 7HW

**Parties:**

Euan Cumming, residing at 10 Woodland View, Southwell, Nottinghamshire NG25 0AG ("the Applicant")

Gary Bannon, residing at 85 TR Dens Road, Dundee DD3 7HW ("the Respondent")

**Tribunal Members:**

**Paul Doyle (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 12 of part 3 of schedule 3 to the 2016 Act.**

**Background**

The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to leave, served on 10 January 2020, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant's spouse is the heritable proprietor of the Property.

**Case Management Discussion**

A case management discussion took place by telephone conference at 11.30am on 24 August 2020. The Applicant was represented by Hazel Young of Rockford

Properties Limited. The hearing was delayed until 11.42am to allow sufficient time for the respondent to participate, but there was no appearance by or on behalf of the Respondent.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a private residential tenancy Agreement for the Property dated 24 May 2019. The tenancy created commenced on 27 May 2019.
2. The rent in terms of the Tenancy Agreement was £440 per month.
3. The respondent fell behind with rental payments in June 2019. Since then, he has only made partial payments of rental so that arrears of rent continued to accumulate. At the date the application was submitted there were arrears of rent totalling £2,200.12, which is more than 3 months' rent. At today's date there are arrears of rental totalling £3,067.97.
4. On 10 January 2020 the applicant served a notice to leave on the respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 13 March 2020, the applicant submitted an application to the tribunal.
5. The Applicant seeks recovery of possession of the Property in terms Ground 12 of part 3 of schedule 3 to the 2016 Act. The rental was five months in arrears at the date the application was submitted. Rental is now almost seven months in arrears.
6. There is no suggestion that the respondent is in arrears of rent either wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. It is not argued that it is unreasonable to grant an order for repossession of the property. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.
7. The respondent offers no resistance to this application. Notice of today's hearing was served on the respondent by Sheriff Officers on 4 August 2020.

### **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in in terms Ground 12 of part 3 of schedule 3 to the 2016 Act is established. The respondent offers no defence to the application. For these reasons, the Tribunal determined to grant an Order for possession.

## **Decision**

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 12 of part 3 of schedule 3 to the 2016 Act.

## **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.**

P. Doyle  
**Legal Member**

**24 August 2020**