



**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/20/1538

Order granted on 23 September 2020 in absence of the Respondent

Property: 26 Coats Crescent, Alloa, FK10 2AQ

Parties:

Steven Wright, c/o Mailers solicitors, 2a King Street, Stirling, FK8 1BA (“the Applicant”)

Scott Garrow, residing at 26 Coats Crescent, Alloa, FK10 2AQ (“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 Grounds 1 and 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 March 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 is the heritable proprietor of the Property.

## **Case Management Discussion**

A case management discussion took place by telephone conference at 2pm on 23 September 2020. The Applicant's solicitor wrote to the tribunal advising that he could not attend but providing written submissions. The hearing was delayed until 2.15pm 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 1 May 2019. The respondent took entry to the property on the same day.
2. The rent in terms of the Tenancy Agreement was £675 per month.
3. The applicant served a notice to leave on 10 March 2020 because he wanted to sell the property. The respondent should have left the property on 3 June 2020 but did not. Instead he remained in the property and did not pay rental.
4. The respondent was regularly late in payments of rental. The respondent has not paid any rental since 1 April 2020. At the date of application there were arrears of rental of £3,450, which is more than 3 months' rent. At today's date the rent arrears total £4,800.
5. On 10 March 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 22 July 2020, the applicant submitted an application to the tribunal.
6. The Applicant seeks recovery of possession of the Property in terms of Grounds 1 and 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 7 months in arrears.
7. 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.
8. The respondent offers no resistance to this application. Sheriff Officers served notice of this hearing on the respondent on 27 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 Grounds 1 and 12 of part 3 of schedule 3 to the 2016 Act are 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 Grounds 1 and 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

**23 September 2020**

**Legal Member**