



**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/22/0067**

**Re: Property at 15 Earnsheugh Way, Cove, Aberdeen, AB12 3RX (“the Property”)**

**Parties:**

**Mr Neil James Haldane Brown, Mrs Fiona Brown, Rising Sun Cottage, Corgarff, Strathdon, Aberdeenshire, AB36 8YP (“the Applicants”)**

**Mr Ben Duncan Reaper, 15 Earnsheugh Way, Cove, Aberdeen, AB12 3RX (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Gordon Laurie (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants are entitled to the Order sought for recovery of possession of the property.**

**[1] Background**

The application before the Tribunal was made in terms of Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The Applicants sought an order to evict the Respondent from the property. The Tribunal intimated the application to the Respondent by letter of 10 March 2022 and advised him of the date, time and conference call details of today’s case management discussion. The Respondent was invited to make written representations by 31 March 2022, but no written representations were received by the Tribunal.

## **The case management discussion**

[2] The Applicants were represented by Mr McLennan, solicitor, who was joined by an observer, Miss Cruikshank. The Respondent participated personally and the case management discussion proceeded by conference call. The Tribunal was advised that the Applicants seek an order for recovery of possession, relying upon Ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016 in respect that the Respondent was in rent arrears in excess of 3 months. The rent statement lodged shows rent arrears due of £7,417.66. The Applicants' representative advised that the arrears of rent have increased since that statement was lodged. It was submitted that it was reasonable in all the circumstances for the Tribunal to grant the order evicting the Respondent from the property: the Applicants' representative explained that the rent arrears are very significant and there are no proposals to repay those arrears. He advised that the Applicants applied for direct payments of the housing element of the Respondent's universal credit claim, but were advised by the local authority that the Respondent may be claiming universal credit for another property. The Respondent accepted that the rent statement lodged was accurate and that rent arrears have increased since then. The Respondent explained that he was not in a position to repay the arrears and that he did not oppose the application for eviction. He advised the Tribunal that he is unemployed and in receipt of universal credit. The housing element of universal credit was stopped for reasons unbeknown to the Respondent. As far as known to the Respondent, he is receiving all of the benefits to which is entitled. The Tribunal noted from the supporting papers that the Applicants had concern about the Respondent's health last year. The Respondent advised the Tribunal that his health has improved since then.

## **[3] Findings in Fact**

- i. The parties entered into a private residential tenancy which commenced 11 September 2018.
- ii. The Applicants' representative served the Notice to leave on the Respondent by recorded delivery on 6 July 2021.
- iii. The Respondent has been in arrears of rent for a continuous period in excess of 3 months.
- iv. As at the date of this case management discussion, the Respondent was in arrears of rent in excess of 3 months.

## **[4] Reason for Decision**

The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Tribunal was satisfied that ground 12 has been established and that it is reasonable for the Tribunal to grant the order for eviction. The Applicants complied with the pre-action protocol, by instructing their representative to issue letters to the Respondent. The Respondent accepted that significant rent arrears are due

and advised that he is not in a position to pay those arrears, or meet the ongoing rent payments.

### **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.**



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**Legal Member/Chair**

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**Date: 3 May 2022**