



**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/22/1010**

**Re: Property at 92 Pathhead, New Cumnock, KA18 4DG (“the Property”)**

**Parties:**

**Mr Greg Knox, 127 Rosendale Road, London, SG21 8HE (“the Applicant”)**

**Miss Lynn Devlin, 92 Pathhead, New Cumnock, KA18 4DG (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Janine Green (Ordinary Member)**

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

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

**Background**

1. The Applicant submitted an application under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondent from the property.
2. By decision dated 19 May 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.
3. The Notice of Acceptance was intimated to the Applicant’s representative on 24 May 2022. The Tribunal intimated the application to the parties by letter of 16 June 2022 and advised them of the date, time and conference call details of today’s case management discussion. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The

Respondent was invited to make written representations by 7 July 2022. No written representations were received by the Tribunal.

### **The case management discussion**

4. The Applicant was represented by Mr Telfer. The case management discussion took place by conference call and proceeded in the absence of the Respondent. The case called alongside the related case which proceeds under chamber reference FTS/HPC/CV/22/1013. The Applicant's representative explained that he has attempted to carry out inspections at the property but has not been afforded access by the Respondent. The Respondent is believed to live in the property with her partner and two children. The Respondent is in receipt of universal credit and this year the Applicant has received the housing element of the Respondent's universal credit claim. Notwithstanding that, the Applicant's representative explained that the rent arrears due by the Respondent have increased since the application was submitted and the sum now due is £5,917.66. The Applicant's representative uses an automated system to advise tenants if they are in arrears of rent and by how much. The Applicant's representative sent regular reminders to the Respondent to advise her of the level of rent arrears. The Applicant's representative advised that he was in contact with the Respondent last week and was told by her that she did not intend to participate in the discussion today and intended to vacate the property by the end of this week. The Applicant's representative submitted that it was reasonable in all of the circumstances to grant the order for eviction.

### **Findings in Fact**

5. The parties entered into a private residential tenancy which commenced 8 March 2021.
6. The Applicant's representative served the Notice to Leave on the Respondent by sheriff officer on 14 September 2021.
7. The Respondent has been in arrears of rent for a continuous period of more than 3 consecutive months.

### **Reason for Decision**

8. The Tribunal proceeded on the basis of the written documents which were before it. The Applicant's representative invited the Tribunal to make the Order sought. The Applicant relied upon Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. The Respondent has been continuously in arrears of rent throughout the tenancy. The Respondent failed to submit any written representations and failed to take part in the case management discussion. There was nothing before the Tribunal challenging or disputing any of the evidence before it. There was nothing to indicate that the Respondent disputed the level of rent arrears as set out in the rent statement.

The Tribunal was satisfied that it was reasonable to grant the order evicting the Respondent from the property.

### **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.**

# Nicola Irvine

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Legal Member/Chair

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**1 August 2022**  
Date