



**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/22/1865**

**Re: Property at G/R 44 City Road, Dundee, DD2 2BJ (“the Property”)**

**Parties:**

**Appletree (Scotland) Limited, 26 Bruce Gardens, Dunfermline, KY11 8HG (“the Applicant”)**

**Mr Sean McDonald, G/R 44 City Road, Dundee, DD2 2BJ (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Gordon Laurie (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 for an order to evict the Respondent from the property.
2. By decision dated 8 August 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 10 August 2022. The Tribunal intimated the application to the parties by letter of 1 September 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 22 September 2022. No written representations were received by the Tribunal.

### **The Case Management Discussion (“CMD”)**

4. The Applicant was represented by Mr Gordon. The CMD took place by conference call and proceeded in the absence of the Respondent. The Applicant’s representative explained that the Applicant intends to sell a property portfolio consisting of 27 properties, of which the property is one. The property is understood to be a studio flat and as far known to the Applicant, the Respondent lives alone. The Applicant intends to sell the other 26 properties with tenants remaining in occupation. However, the Applicant seeks vacant possession in relation to the property because the Respondent has breached his obligations in terms of the tenancy agreement. The Applicant has upgraded other properties in the portfolio and sought to improve the property. However, the Applicant has been unable to gain access to the property and therefore has been unable to undertake any improvement work to the property. It is not known whether the Respondent resides in the property on a permanent basis. The Respondent has also incurred rent arrears of approximately £1,800 and has failed to make any proposal in respect of payment of those arrears. The Respondent has failed to communicate with the Applicant’s letting agent. The Applicant has instructed a firm of solicitors in relation to the proposed sale of the property portfolio and documentary evidence has been produced which confirms that. It was submitted that it was reasonable in the circumstances for an order for eviction to be granted.

### **Findings in Fact**

5. The parties entered into a private residential tenancy which commenced 15 October 2018.
6. The Notice to Leave was served on the Respondent by sheriff officer on 25 November 2021.
7. The Applicant intends to sell the let property.

### **Reason for Decision**

8. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Respondent did not lodge any written representations and did not participate in the CMD. The Applicant produced a copy letter of engagement from solicitors which confirms the Applicant’s intention to sell the property. The Tribunal was satisfied that ground 1 has been established. The information before the Tribunal suggested that the Respondent had not complied with all aspects of the tenancy agreement, such as allowing access and paying rent as it fell due. On balance, the Tribunal found that it was reasonable to grant the order sought.

## 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

20 October 2022  
\_\_\_\_\_  
Date