



**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/22/2806**

**Re: Property at 42 Burns Street, Irvine, KA12 8RP ("the Property")**

**Parties:**

**Miss Fiona Cowan, C/O Murphy Scoular, 22/24 John Finnie Street, Kilmarnock, KA1 1DD ("the Applicant")**

**Mr Michal Wawer, 42 Burns Street, Irvine, KA12 8RP ("the Respondent")**

**Tribunal Members:**

**Gillian Buchanan (Legal Member) and Leslie Forrest (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that:-**

At the Case Management Discussion ("CMD"), which took place by telephone conference on 22 November 2022, the Applicant was not in attendance but was represented by Mr Scott Crainie of Murphy Scoular. The Respondent was neither present nor represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

**Background**

The Tribunal noted the following background:-

- i. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 3 July 2020.
- ii. The rent payable in terms of the PRT was agreed to be £350 per calendar month.
- iii. The rent arrears due as at the date of the application were £1,850.
- iv. On 13 June 2022, the Applicant served on the Respondent by Sheriff Officers a Notice to Leave requiring the Respondent remove from the Property by 12 July 2022 on the basis of rent arrears accrued.

- v. The Applicant has served on North Ayrshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

### **The CMD**

At the CMD Mr Crainie for the Applicant made the following representations:-

- i. The current rent arrears balance is £1,497.46.
- ii. The Respondent is still living in the Property. He lives there alone.
- iii. The property is a bedsit.
- iv. The Respondent was in employment at the outset of the PRT. It is believed he lost his job but then obtained other employment in a factory. It is believed he is working again.
- v. Only two payments of Universal Credit have been received by the Applicant, namely £350 on 3 October and £72.54 on 21 October 2022.
- vi. There have been several telephone conversations with the Respondent. On each occasion he intimates that he is waiting on money being received and will make a substantial payment. He never does so.
- vii. The Applicant has one other property which she rents out without difficulty. She previously sold another rental property due to the financial burden being placed on her.
- viii. The Applicant seeks an eviction order.

### **Findings in Fact**

- i. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 3 July 2020.
- ii. The rent payable in terms of the PRT was agreed to be £350 per calendar month.
- iii. The rent arrears due as at the date of the application were £1,850.
- iv. On 13 June 2022, the Applicant served on the Respondent by Sheriff Officers a Notice to Leave requiring the Respondent remove from the Property by 12 July 2022 on the basis of rent arrears accrued
- v. The Applicant has served on North Ayrshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- vi. The Respondent continues to live in the Property alone.
- vii. As at the CMD the rent arrears due total £1,497.46.
- viii. It reasonable, in the circumstances, that an eviction order be granted in favour of the Applicant.

### **Reasons for Decision**

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant within the application papers and orally at the CMD was not challenged and was accepted by the Tribunal.

The Tribunal determined that it is reasonable to grant an eviction order under Ground 5 of Schedule 3 of the 2016 Act.

### **Decision**

The Tribunal granted an eviction order in favour of the Applicant

## **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.**



**Legal Member/Chair**

**22 November 2022**  
**Date**