



**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/19/1288**

**Re: Property at 52 Forthill Drive, Broughty Ferry, Dundee, DD5 3EA (“the  
Property”)**

**Parties:**

**Mr Graeme Goff, 61 Rossie Avenue, Broughty Ferry, Dundee, DD5 3NQ (“the  
Applicant”)**

**Mrs June Mackie, 52 Forthill Drive, Broughty Ferry, Dundee, DD5 3EA (“the  
Respondent”)**

**Tribunal Members:**

**Gabrielle Miller (Legal Member)**

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

1. An application was received by the Housing and Property Chamber on 26th April 2019. It was dated 23rd April 2019. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to Schedule 3 ground 12 of the Private Housing (Tenancies) Act 2016.
2. The application included:-
  - a. A Short Assured Tenancy agreement commencement of tenancy being 20th July 2018;
  - b. Notice to Leave dated 22nd February 2019 stating an application would not be submitted to the Tribunal before 26th March 2019;
  - c. Section 11 notice noting proceedings would not be raised before 23rd April 2019; and

- d. Rent statement from 1st August 2018 to 12th April 2019. This detailed the rent of £600 per 23rd February 2019 serving Notice to Leave upon the Respondent.
3. The Tribunal also had before it a copy of the title deeds numbered ANG41841.
4. On 15th May 2019, all parties were written to with the date for the Case Management Discussion ("CMD") on 21st June 2019 at 10am at Caledonia House, Greenmarket, Dundee. The letter also requested all written representations be submitted by 4th June 2019. Neither party submitted representations.
5. On 15th May 2019, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service and first class post. This was evidenced by Certificate of Intimation dated 15th May 2019.
6. On 20th June 2019, the Housing and Property Chamber received an email and signed mandate from Shelter Scotland stating that they had been appointed as representative for the Respondent. The email detailed that the Respondent would not be attending the hearing and that she was not submitting a defence.
7. The case was conjoined with case FTS/HPC/CV/19/1292

### **The Case Management Discussion**

8. A CMD was held on 21st June 2019 at 10am at Caledonia House, Greenmarket, Dundee. The Applicant was represented by Mr Stephen Forsyth, solicitor. The Applicant did not attend. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. Neither party made representations in advance of the hearing. Mr Forsyth informed the Tribunal that the Applicant had written to the Respondent on 15th January 2019 but that the Respondent had failed to respond to the letter. There had been no offers of payment forthcoming. There was no discussion of Mr Forsyth informed the Tribunal that, insofar as he was aware, there were no outstanding Housing Benefit or Universal Credit Housing Element issues.
9. It was accepted that while there was a Short Assured Tenancy within the papers that this was signed erroneously and defaulted to the model Private Rented Tenancy as the tenancy commenced after 1st December 2017.

### **Findings and reason for decision**

10. A Private Rented Tenancy Agreement commenced 20th July 2019.
11. The Respondent persistently failed to pay her rent charge of £600 per month. The rent payments are due to be paid on 1st day of each month.

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12. Arrears accrued to more than one months rent payment at the date of application and was more than three months rent payments at the date of the hearing.
13. There are no outstanding Housing Benefit issues.
14. The arrears sought totalled £3125.44. The Tribunal was satisfied that the Respondent had been aware that a higher amount was being sought in the application.

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### **Decision**

15. The Tribunal found that ground 12 has been established and the granted an 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.**

Gabrielle Miller

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**Legal Member/Chair**

21 Oct 19  

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**Date**