



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/22/1388**

**Re: Property at 4B Moss Vale Street, Paisley, PA3 2LR (“the Property”)**

**Parties:**

**Greywalls Property Limited, 16 Truss Hill Road, Ascot, SL5 9AL (“the Applicant”)**

**Ms Natasha Turnbull, 4B Moss Vale Street, Paisley, PA3 2LR (“the Respondent”)**

**Tribunal Members:**

**Ms H Forbes (Legal Member) and Mrs F Wood (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent.**

**Background**

1. This is an application received on 12<sup>th</sup> May 2022 and made in terms of Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (‘the Rules’). The Applicant is the landlord of the Property, and the Respondent is the tenant, in terms of a tenancy agreement that commenced on 15<sup>th</sup> January 2021 at an agreed rent per month of £625.
2. The Applicant lodged a copy of the tenancy agreement, copy Notice to Leave dated 7<sup>th</sup> April 2022 stating that an application for an eviction order would not be submitted before 8<sup>th</sup> May 2022, with evidence of email service, copy section 11 notice with evidence of service, copy correspondence to the Respondent including pre-action requirement letters and a rent statement.
3. Service of the application and notification of a Case Management Discussion was served upon the Respondent by Sheriff Officers on 30<sup>th</sup> June 2022.

## **The Case Management Discussion**

4. A Case Management Discussion took place by telephone conference on 9<sup>th</sup> August 2022. The Applicant was represented by Mr Richard Driver, Managing Director and owner of the Applicant company. The Respondent was not in attendance.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the Hearing, together with details on joining the telephone conference. The Tribunal determined that the requirements of Rule 17(2) had been satisfied and that it was appropriate to proceed with the application in the absence of the Respondent upon the representations of the Applicant and the material before the Tribunal.
6. Mr Driver said the Respondent has paid no rent since 4<sup>th</sup> March 2022. The arrears are now £5325. The Respondent has told Mr Driver on several occasions that she intends to move out of the Property but has not done so. She told Mr Driver that she had witnessed a traumatic event in the past and no longer wished to live in the area. The last contact from the Respondent was last week, when she stated again that she would be moving out.
7. Responding to questions from the Tribunal, Mr Driver said he understands the Respondent's teenage sister lives with her and that she receives some financial help as guardian of her sister. There has been no direct payment of rent through any relevant benefit. It is his understanding that the Respondent has two part-time jobs. Mr Driver said the Applicant has around 19 properties for let. He has not visited the Property to check whether the Respondent is still there, as he did not wish to intrude.

## **Findings in Fact and Law**

8.
  - (i) The parties entered into a private residential tenancy agreement in respect of the Property commencing on 15<sup>th</sup> January 2021 at an agreed rent per month of £625.
  - (ii) Notice to Leave has been served upon the Respondent.
  - (iii) The Respondent has been in arrears of rent for three or more consecutive months.
  - (iv) At the date of the CMD, the Respondent was in arrears of rent by an amount greater than the amount payable as one month's rent.
  - (v) The Respondent's rent arrears are not due to a delay or failure in the payment of a relevant benefit.
  - (vi) The pre-action requirements for private residential tenancies have been met.

- (vii) It is reasonable to grant an eviction order.

### **Reasons for Decision**

9. Ground 12 of Schedule 3 of the Act provides that it is an eviction ground if the tenant has been in rent arrears for three or more consecutive months. The Tribunal must find that this applies if (1) at the beginning of the day on which the Tribunal first considers the application for an eviction order, the tenant is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day; (2) the tenant has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months; and (3) the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
10. The Tribunal is satisfied that the necessary Notice to Leave has been correctly issued to the Respondent in terms of the Act.
11. The Tribunal is satisfied that Ground 12 has been established.
12. No evidence was provided to the Tribunal to show that the arrears were due to a delay or failure in the payment of a relevant benefit. The pre-action requirements were met.
13. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the fact that the arrears were considerable, and that a *prima facie* case in respect of reasonableness had been made out on behalf of the Applicant.
14. The Respondent was not in attendance to put forward any reasons why it would not be reasonable to grant the order, despite having been notified of the application and the CMD.
15. The Tribunal took into account the representations made regarding the circumstances of both parties. In all the circumstances, the Tribunal considered it reasonable to grant the order sought.

### **Decision**

16. An eviction order in respect of the Property is granted against the Respondent.

### **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.

Helen Forbes

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Legal Member/Chair

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9<sup>th</sup> August 2022  
Date