



**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/23/2560**

**Re: Property at 33 Links Road, Saltocats, KA21 6BQ (“the Property”)**

**Parties:**

**Ecosse Estates Ltd, Office 2, Room 8, Kirkhill House, 81 Road East, Newton Mearns, G77 5LL (“the Applicant”)**

**Miss Kelly Brien, 33 Links Road, Saltocats, KA21 6BQ (“the Respondent”)**

**Tribunal Members:**

**Karen Kirk (Legal Member) and Mary Lyden (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondent.**

**Introduction.**

This Hearing concerned an Application for an Eviction order under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 in respect to a Private Residential Tenancy. The hearing took place by teleconference.

**1. Attendance and Representation.**

James McMillan, property manager for the Applicant’s attended on their behalf.

The Respondent was not in attendance. She had been served by Sheriff Officer on the 20<sup>th</sup> September 2023.

**2. Preliminary Matters.**

The Applicant's representative confirmed that they had visited the property 2 weeks ago and spoke to the Applicant's daughter. They reminded them of this hearing. There has been little contact but the Applicant's are of the view the Respondent is still residing in the property.

The Tribunal confirmed that an up to date rent statement had been lodged with the Tribunal and noted the rent arrears within same amounted to £4674.14 as at 2<sup>nd</sup> October 2023. The Tribunal was advised that the Respondent receives rent statements monthly.

The Tribunal raised that the application contains the description of Ground 12A but states Ground 12. The Notice to Leave correctly states Ground 12A. It was confirmed this was an error and the Ground the application proceeds on is Ground 12A.

No written representations or contact from the Respondent on the application had been received by the Tribunal prior to the hearing commencing.

There were no other preliminary matters raised.

### **3. Case Management Discussion.**

The Applicant's representative submitted that he sought an order for Eviction based on Ground 12A, Schedule 3, of the 2016 Act on the basis of substantial rent arrears. He explained that as at the 2<sup>nd</sup> of October 2023 the rent arrears were £4674.14 and he referred to the rent statement lodged. He advised that from March to September 2023 there had been no payments to rent by the Respondent. Rent per calendar month is £525. He submitted that Ground 12A, substantial rent of more than 6 months was established.

The Applicant's representative submitted that the Respondent was a self employed hairdresser. At the start of the tenancy he said the Respondent was a full time employed hairdresser. He believes the rent arrears accrued due to the change in employment. He further submitted that the Applicant's had made a claim direct to Universal Credit. There has been a number of different levels of payments received since then but it depends on the hours the Respondent works.

The Applicant's representative said that they had had communication with the Respondent about payment plans and they had visited the Respondent. They had sent out guidance in terms of the pre-action protocol as they are members of the Scottish Association of Landlords. The Applicant's representative said that the Respondent's daughter they are not aware resides there and is maybe 16, 17 or 18 years of age. There are no known vulnerabilities or issues.

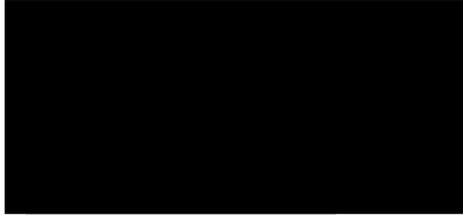
#### **4. Reasons for Decision and Findings in Fact**

- 1. The Tribunal was satisfied that a decision could be made in the absence of the Respondent at the Hearing and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. The Respondent had been served personally by Sheriff Officer on 20<sup>th</sup> September 2023, remains in the property and had not provided any written representations or appeared at the Hearing.**
- 2. The Applicant sought an Order for Eviction on Ground 12A of Schedule 3, of the Act that the Respondent is in substantial rents arrears amounting to 6 months or more worth of rent.**
- 3. There was a PRT in place dated 13<sup>th</sup> July 2019.**
- 4. A Notice to Leave was sent to the Respondent on the 20<sup>th</sup> June 2022. had a signposting conversation with the Respondent.**
- 5. The Tribunal was satisfied on balance that in terms of Schedule 3, Part 3, Ground 12A of the 2016 Act that the Respondent is in substantial rents arrears amounting to 6 months or more worth of rent.**
- 6. The Tribunal had before it a rent statement stating rent as at 2<sup>nd</sup> October due by the Respondent was £4674.14. Rent per calendar month in terms of the tenancy due was £525.**
- 7. The Tribunal found that the requirements of Ground 12A, Part 3 of Schedule 3 to the Act had been met.**
- 8. The Tribunal was also satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period.**
- 9. The Tribunal noted the Local Authority under the Private Housing (Tenancies) (Scotland) Act 2016 had been notified by email on the 1<sup>st</sup> August 2023**
- 10. On the evidence available to the Tribunal the Respondent had no dependent known to be residing with her, a daughter who had been present on a visit to the property did not confirm she resided there, there were no known vulnerabilities noted. It is believed the Respondent is in self-employment and in her early 40's. The Applicant has attempted to try to assist the Respondent without success and the arrears are now substantial. The Tribunal found an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020.**
- 11. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order 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.**



**26<sup>th</sup> October 2023**

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**Legal Member/Chair**

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**Date**