



**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/23/3910**

**Re: Property at Lawn Park Cottage, Newliston, EH29 9EB (“the Property”)**

**Parties:**

**Mrs Caroline Maclachlan, Newliston House, Newliston, EH29 9EB (“the Applicant”)**

**Miss Philippa Meldrum, Mr Sean Seymour, Lawn Park Cottage, Newliston, Kirkliston, EH29 9EB (“the Respondents”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Ann Moore (Ordinary Member)**

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

**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 Respondents from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 12 February 2024 informing both parties that a CMD had been assigned for 26 March 2024 at 2pm, which was to take place by conference call. In that letter, the parties were also told that they were 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 Respondents were invited to

make written representations by 4 March 2024. No written representations were received by the Tribunal.

### **The case management discussion**

4. The CMD took place by conference call. The Applicant was represented by Miss Debra Jarvie. The Respondents did not join the conference call and the discussion proceeded in their absence. The Tribunal explained the purpose of the CMD. The Applicant's representative explained that since the rent statement was lodged, the rent arrears have continued to accrue and the sum now due is £14,296. The background is that a previous application was made under chamber reference FTS/HPC/EV/22/2931. In that case, a CMD took place on 29 March 2023. From the written decision in that case, it is clear that the Respondents undertook to repay the rent arrears due at that time. The Applicant's representative explained that the Respondents agreed to a repayment plan in June 2023 whereby the Respondents were to pay the ongoing rent plus £1,000 per month towards arrears. The Respondents have made a couple of payments towards the rent account but the arrears balance has continued to increase. The last payment made by the Respondents was in October 2023. The Respondents have told the Applicant's representative that their application for universal credit is ongoing, but the Applicant has no further information about that. The Applicant's representative did not know the current position with regard to the Second Respondent's health, but it is assumed that treatment is ongoing. The Applicant's position was that ground 12A has been established and that it is reasonable to grant an order for eviction.

### **Findings in Fact**

5. The parties entered into a private residential tenancy which commenced 25 September 2020.
6. The Applicant served Notice to Leave on the Respondents by email on 27 September 2023.
7. The Respondents have incurred rent arrears amounting to £14,296.

### **Reason for Decision**

8. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicants relied upon ground 12A of the Private Housing (Tenancies) (Scotland) Act 2016. The Respondents failed to participate in the CMD and failed to lodge any written representations. The rent statement produced demonstrates that the Respondents have been consistently in arrears of rent since January 2023. The Tribunal was satisfied that ground 12A was established.
9. Although the Respondents have made a couple of payments to the rent account, they have not adhered to the repayment arrangement. Given the

significant period of time the Respondents have been in rent arrears, the Tribunal concluded that this is a tenancy which is not sustainable by the Respondents. Notwithstanding the fact that the Second Respondent has a serious health condition, the Tribunal was mindful of the undertaking given by the Respondents at the CMD last year and not fulfilled. On balance, the Tribunal concluded that the Applicant would be more prejudiced if the tenancy were to continue. The Tribunal was satisfied that it was reasonable to grant an order evicting the Respondents from the property.

### **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.**

**N Irvine**

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**Legal Member/Chair**

**26 March 2024**  
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**Date**