



**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/24/2565**

**Re: Property at 38 Southampton Place, Dundee, DD4 7PW (“the Property”)**

**Parties:**

**Mrs Jane Robertson, 39 Fairfield Road, West Ferry, Dundee, DD5 1PL (“the Applicant”)**

**Ms Emma Mann, 38 Southampton Place, Dundee, DD4 7PW (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Elizabeth Williams (Ordinary Member)**

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

**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 and that the period of charge should be extended by a period of 2 weeks in terms of Section 216(4) of the Bankruptcy and Diligence etc (Scotland) Act 2007.**

**Background**

1. The Applicant submitted an application under Rule 109 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondent 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 25 October 2024 informing both parties that a CMD had been assigned for 5 December 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 Respondent was invited to make written representations by 15 November 2024. No written representations were received by the Tribunal.

4. The Tribunal caseworker received a telephone call from the Respondent on 13 November 2024 advising that she intends to vacate the Property in February 2025.

#### **The case management discussion – 5 December 2024**

5. The CMD took place by conference call. The Applicant was represented by her husband, Mr Ian Robertson. The Respondent did not join the call, and the discussion proceeded in her absence. The Tribunal explained the purpose of the CMD. The Applicant's representative explained that the Respondent has been in arrears of rent for some time. The rent arrears amount to approximately £1,200. Rent is now paid directly from the Respondent's universal credit claim, but the Respondent has not engaged with the Applicant in relation to payment of the arrears. In addition, the Respondent has failed to cooperate in allowing access to the Property. The Applicant now wishes to recover possession of the Property so that she can sell it. The Applicant's representative received a telephone call from the Respondent's brother in law on 13 November 2024 who indicated that the Respondent may move out of the Property in or around February 2024. It was not clear however whether that individual was authorised to speak on behalf of the Respondent. The Respondent is believed to be in employment and she lives in the Property with her 3 children. The Applicant's representative indicated that he is prepared to allow the Respondent slightly longer to vacate the Property.
6. The Tribunal adjourned the CMD to allow the members to discuss matters in light of the information provided. When the CMD was reconvened, the Tribunal advised the Applicant's representative that it found that the ground for eviction had been established and that it was reasonable to grant the order, although the period of charge in relation to the notice of removal has been extended by a period of 2 weeks.

#### **Findings in Fact**

7. The parties entered into a private residential tenancy which commenced 12 April 2019.
8. The Applicant served Notice to Leave on the Respondent by email on 8 March 2024.
9. The Applicant intends to sell the Property.

## **Reason for Decision**

4. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicant relied upon ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016. The Respondent did not participate in the CMD, although she made contact with the Tribunal's office to indicate that she intends to vacate the Property. The Tribunal was satisfied that ground 1 was established and that it was reasonable to grant the order. In light of the information provided to the Tribunal office by the Respondent, the Tribunal extended the period of charge before removal from the Property by a period of 2 weeks.

## **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.**

# Nicola Irvine

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Legal Member/Chair

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5 December 2024

Date