



**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/24/5321**

**Property : 22 Downfield Place, 1F1 (Flat 5), Dalry, Edinburgh EH11 2EL ("Property")**

**Parties:**

**John Douglas, 56 Quarry Road, Lisbane, Comber, County Down BT23 6ED ("Applicant")**

**Gilson Gray LLP, 29 Rutland Square, Edinburgh EH1 2BW ("Applicant's Representative")**

**Christyan Jose de Sousa Rosa, 22 Downfield Place, 1F1 (Flat 5), Dalry, Edinburgh EH11 2EL ("Respondent")**

**CHAI, 28 Westfield Avenue, Edinburgh EH11 2QH ("Respondent's Representative")**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Frances Wood (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined to grant an order for possession of the Property and to delay enforcement of the order until 30 June 2025.**

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Tenancy Agreement which commenced on 20 December 2019 ("Tenancy Agreement"); Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 17 October 2024 ("Notice to Leave"); sheriff officer certificate of service of the Notice to Leave on 18 October 2024; statement of rent arrears; rent increase notices effective from 30 November 2023 and 20 November 2024; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering letter dated 18 November 2024. The Application was served on the Respondent by sheriff officer on 11 March 2025.

On 17 March 2025 the Applicant's Representative lodged an updated statement of rent arrears and sought to amend the name of the Applicant to John Douglas following a transfer of title. The Applicant's Representative lodged a copy disposition of the Property from Josh Douglas to the Applicant and assignation from Josh Douglas to the Applicant in terms of which Josh Douglas transferred to the Applicant the entitlement to receive rent due by the Respondent as at 9 December 2024 along with a copy email dated 17 March 2025 in terms of which the assignation was intimated to the Respondent. The rent due as at 30 November 2024 was stated to be £3,605.39. The rent stated to be due for the period 9 December 2024 to 20 February 2025 was £2,896.51.

On 19 May 2025 the Tribunal received an email from CHAI in which they stated that the Respondent wished to advise the Tribunal that the Respondent did not object to an eviction order being granted but would appreciate if the Tribunal would consider a delay in enforcement to allow more time for the Respondent to secure alternative accommodation and to prepare his young child for the move.

### **Case Management Discussion ("CMD")**

A CMD took place before the Tribunal on 20 May 2025 by teleconference. The Applicant was represented by David Gray of the Applicant's Representative. The Respondent was represented by Sophie Bennett of the Respondent's Representative.

Ms Bennett told the Tribunal that the Respondent lived in the Property with his 8 year old son who is in primary 4. She said that the Respondent does not object to an order for possession being granted but he would appreciate a delay in enforcement until the end of the school summer holiday. She said that the Respondent first contacted CHAI in February 2025 and he had been provided with information regarding who to contact about alternative accommodation on a number of occasions. Ms Bennet said she had spoken to the Respondent the previous day and he had not yet contacted the local authority. She said the Respondent had worked as a delivery driver but his vehicle had been stolen and he is not currently working. Ms Bennett said she was aware of the transfer in title from Joshua Douglas to the Applicant and she had no issue to raise in that regard.

Mr Gray said that his client did not consent to any delay in enforcement. He said the rent had not been paid for the past 9 months and the Applicant was not prepared to agree to a further 3 months of no rent being paid. He said that pre-action communications had been issued to the Respondent but he had not engaged with the Applicant. He said that the Applicant did not own other rental properties and had not yet decided whether to re-let the Property or to sell if an order for possession was granted.

## **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement which commenced on 20 December 2019.
2. The Notice to Leave was served by sheriff officer on 18 October 2024.
3. At the date of service of the Notice to Leave and the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 18 November 2024.

## **Reasons for the Decision**

The Tribunal determined to allow the name of the Applicant to be amended.

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51 of the Act, the First-tier Tribunal may issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies. In the Notice to Leave the Applicant stated that they sought recovery of possession of the Property on the basis set out in ground 12 which is that the tenant has been in rent arrears for three or more consecutive months. The Tribunal considered the statement of rent arrears provided and determined that ground 12 had been established.

The Respondent did not object to an order for possession being granted but sought a delay in the date of enforcement. The rent arrears were significant with no payment having been made for a period of 9 months. The Tribunal had been told that the Respondent had taken no steps to find alternative accommodation despite being provided with information to assist him in doing so. Having considered all of the circumstances, the Tribunal determined that it was reasonable to issue an eviction order but to delay enforcement until 30 June 2025 being the end of the school term for Edinburgh schools.

## **Decision**

The Tribunal grants an order for possession of the Property and to delay enforcement of the order until 30 June 2025.

## **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.**

**Joan Devine  
Legal Member**

**Date : 21 May 2025**