



**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/22/1303**

**Re: Property at 14/10 North William Street, Perth, PH1 5PT (“the Property”)**

**Parties:**

**Mrs Katie Hall, 45 King Street, Perth, PH2 8JB (“the Applicant”)**

**Miss Ashleigh Johnson, 14/10 North William Street, Perth, PH1 5PT (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member) and Gerard Darroch (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.**

**Background**

By application, received by the Tribunal on 5 May 2022, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“The 2016 Act”). The Ground relied on was Ground 12 of Schedule 3 to the 2016 Act, namely that the Respondent has been in rent arrears for three or more consecutive months.

The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 1 November 2018 at a rent of £350 per month and a Notice to Leave, served on 4 April 2022, advising of the Applicant’s intention to apply for an Eviction Order under Ground 12 of Schedule 3 to the 2016 Act and that an application would not be made before 4 May 2022. The Applicant also provided a Rent Statement showing arrears as at 1 May 2022 of £1,752. No rent had been paid since December 2021.

On 24 August 2022, the Tribunal advised the Parties of the date and time of a Case Management Discussion and the Respondent was invited to make written

representations by 14 September 2022. The Respondent did not make any written representations to the Tribunal.

### **Case Management Discussion**

A Case Management Discussion was held on the morning of 10 October 2022. The Applicant was present and was represented by Mr Murray Hall of Premier Properties, Perth. The Respondent was not present or represented. The Applicant's representative told the Tribunal that the arrears now stood at £1,455. The Applicant told the Tribunal that she had received no payments of rent from 1 December 2021 until 12 May 2022, when a payment of £176.59 was made by the Department of Work and Pensions ("DWP"). She then received £350 on 1 June 2022 and a second payment from DWP of £105.91 on 15 July 2022. On 1 June, 1 July, 1 August, 1 September and 1 October 2022, she had received Bank Giro Credit payments of £282.50, which she assumed must have been in respect of Universal Credit.

The Applicant told the Tribunal that she was very concerned that the Property was not being looked after by the Respondent. All her efforts to contact the Respondent had been unsuccessful. She would have been willing to enter into a Payment Plan if the Respondent had a reasonable proposal to make, but the Respondent had ignored all communications and the arrears continue to increase. The Applicant and her representative understood that the Respondent lives alone in the Property.

The Tribunal asked the Applicant's representative if there was any evidence that the Rent Arrears Pre-Action Requirements (Coronavirus) Regulations 2020 had been complied with. He provided the Tribunal with a copy of an email he had sent to the Respondent on 1 June 2022, which signposted the Respondent to sources of help and assistance.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

Section 51 of the 2016 Act states that the Tribunal is to 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.

Ground 12 of Schedule 3 to the Act states that it is an Eviction Ground that the tenant has been in rent arrears for three or more consecutive months and that the Tribunal may find that Ground 12 applies if, at the beginning of the day on which the Tribunal first considers the application for an Eviction Order on its merits, 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, and 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, that 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, and the Tribunal is satisfied that it is reasonable on account of that fact to issue an Eviction Order.

The Tribunal was satisfied that the Respondent had been in rent arrears for three or more consecutive months and that the current arrears exceeded one month's rent. No evidence was provided to suggest the arrears were in any way a consequence of a

delay or failure in the payment of a relevant benefit. The Tribunal was also satisfied that the Pre-Action requirements had been met by the email of 1 June 2022.

Accordingly, the question for the Tribunal to determine was whether it would be reasonable to issue an Eviction Order.

The Tribunal noted that, following a period of 5 months during which nothing was paid, there had been two payments of Universal Credit in May and July 2022, and a payment of £350 on 1 June 2022. The Tribunal had to assume that the payments of £282.50 per month from 1 June 2022 to date represented the housing element of the Respondent's Universal Credit. The Respondent was not, however, taking any steps to "top up" these payments to meet the monthly rent of £350. She had not made any written representations to the Tribunal and had not been present or represented at the Case Management Discussion, so had not provided the Tribunal with any evidence to suggest that she intended to reduce the arrears or that she was in a position to enter into a Payment Plan to do so, or any details of her personal situation that she wished the Tribunal to take into account in arriving at its Decision. The arrears were continuing to increase every month, due to the shortfall between the monthly payments and the contractual rent.

Having considered carefully all the evidence before it, the Tribunal decided that it would be reasonable to issue 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.**

**George Clark  
Legal Member/Chair**

**10 October 2022  
Date**