

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**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/19/1544**

**Re: Property at 10D Ballindean Road, Dundee, DD4 8NL (“the Property”)**

**Parties:**

**Mr Thomas Jamieson, Mrs Moira Jamieson, 18 Fontstane Street, Monifieth, DD5 4LE (“the Applicants”)**

**Ms Nicola Ann Hughes, 10D Ballindean Road, Dundee, DD4 8NL (“the Respondent”)**

**Tribunal Members:**

**Helen Forbes (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent.**

**Background**

This is an application for an eviction order dated 20<sup>th</sup> May 2019, made under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).

The Applicants seek an eviction order in respect of the Property on ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”). The Applicants lodged a copy of the Private Rented Tenancy agreement which commenced on 11<sup>th</sup> February 2019, copy Notice to Leave as required under section 52(3) of the Act, and notice to the local authority as required under section 56(1) of the Act. A rent statement was also provided, showing rent arrears of £1,845 on 11<sup>th</sup> May 2019. Rent for the Property was £450 per month. The Respondent had made one payment of £45 at the start of the tenancy and no further rental payments had been made during the period from 11<sup>th</sup> February to 20<sup>th</sup> May 2019. Email correspondence between the parties was also lodged

Intimation of the Case Management Discussion was made upon the Respondent by Sheriff Officers on 4<sup>th</sup> July 2019. No representations were received from the Respondent.

### **The Case Management Discussion**

A Case Management Discussion ("CMD") took place on 12<sup>th</sup> August 2019 at the Dundee Carers' Centre, Seagate House, 132-134 Seagate, Dundee. The Applicants were not in attendance, and were represented by Melissa Coleman, Accounts Manager, Struan Baptie Property Management Limited. The Respondent was not in attendance. The Tribunal was satisfied that the requirements of Rule 24(1) had been complied with and notice of the CMD given, and that it was appropriate to continue with the CMD in terms of Rule 29.

Ms Coleman said payments of Universal Credit covering the full rent had been received in May, June and July 2019. Two payments had also been received from Universal Credit of £31.78 towards the arrears. The Respondent has promised in the past to make payments towards the arrears but no payment have been forthcoming from the Respondent. As at the date of the CMD, the arrears are £1,726.44. The Respondent has been in touch with Struan Baptie asking what date she would have to leave the Property, and stating that she would hand the keys in on 12<sup>th</sup> August 2019. At the time of the CMD, the keys had not yet been received.

### **Findings in Fact**

1. The parties entered into a tenancy agreement which commenced on 11<sup>th</sup> February 2019 with a monthly rent of £450.
2. The Respondent has been in arrears of rent for three or more consecutive months.
3. At the date of the Case Management Discussion, the Respondent is in arrears of rent in the sum of £1,726.44, which is an amount greater than the amount payable as one month's rent.
4. The rent arrears do not appear to be due to a delay or failure in the payment of a relevant benefit.

### **Reasons for Decision**

Ground 12 of Schedule 3 of the Act provides that it is an eviction ground if the tenant has been in rent arrears for three or more consecutive months. The Tribunal must find that this ground applies if (1) at the beginning of the day on which the Tribunal first considers the application for an eviction order, 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; (2) the tenant 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; and (3) 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.

The Tribunal is satisfied that the necessary documents were validly and correctly prepared and served in terms of the requirements of the Act. The Tribunal is satisfied that Ground 12 has been established. There was no evidence before the Tribunal to show that the arrears were due to a delay or failure in the payment of a relevant benefit. In terms of Section 51(1) of the Act, the Tribunal must issue an eviction order if it finds that one of the eviction grounds named in Schedule 3 applies.

### **Decision**

The Tribunal determined that an eviction order should be granted 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.**

Helen Forbes

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**Legal Member/Chair**

12th August 2019

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**Date**