



**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/19/3899**

**Re: Property at 0/2 27 Ferguslie Walk, Tannahill Court, Paisley, PA1 2RG (“the Property”)**

**Parties:**

**Mr Keith Ingram, 34 Fountainhall Road, Aberdeen, AB15 4DT (“the Applicant”)**

**Mr Joseph Sillars, 0/2 27 Ferguslie Walk, Tannahill Court, Paisley, PA1 2RG (“the Respondent”)**

**Tribunal Members:**

**Valerie Bremner (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 in terms of section 51 and Schedule 3 Ground 12 of the Private Tenancies (Scotland) Act 2016 must be granted as the tenant has been in arrears of rent for three or more consecutive months and the terms of Ground 12 (2) are met in full.**

1. This is an Application under Rule 109 of the Tribunal Rules for an eviction order under section 51 of the 2016 Act.
2. The Application was lodged with the Tribunal on 9 December 2019 and accepted on 16 December 2019.
3. A Case Management Discussion was fixed for 31<sup>st</sup> January 2020.
4. At the Case Management Discussion Miss Kane of Lyons Davidson solicitors attended to represent the Applicant who was not present.



5.The Respondent did not attend the case management discussion and Miss Kane requested that the Tribunal proceed in his absence. The Tribunal had sight of an execution of service of the Tribunal papers on the Respondent and was satisfied that the matter could go ahead in the absence of the Respondent in terms of Rule 29 of the Tribunal rules.

6.The Tribunal had sight of the application and paper apart, the tenancy agreement,the Notice to Leave and copy of service of it by email, a Notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 together with a letter intimating this document to the local authority. The Tribunal also had sight of two statements of rent payments and arrears.

7.Miss Kane requested an eviction order. The tenancy had started on 29 January 2019 and the monthly rent payable was £435.The rent arrears statements showed arrears starting to build at the end of March 2019 and these had increased to £1553 at the end of November 2019.As at the date of the case management discussion rent arrears amounted to £1527.29.Small payments had been made in December 2019 and January 2020 but there had been continuous arrears since the end of March 2019.

8.Miss Kane advised that she was not aware of any issues regarding delay or failure in payment of benefit which had caused or contributed to the arrears.She noted that payments appeared to be made directly to a letting agent.

9.There was a discussion around the fact that a name was on the rent statements as well as that of the Respondent and tenant Mr Sillars. Miss Kane was of the view that this may have been a person who lived there but she knew of no sub tenant or indeed whether this named person a "Mrs E Irvine"was in residence at the property. In any event she wished to continue with the request for an Eviction Order against the Respondent. As the tenancy and application related only to the Respondent the Tribunal was prepared to proceed with the Application.

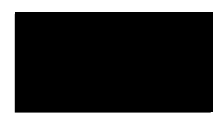
10.The Tribunal considered the Notice to Leave and Notice in terms of the Homelessness etc ( Scotland ) Act 2003 and these appeared to have been properly served and in the case of the Notice to Leave, this was in the correct form and gave correct notice periods.

11.An eviction order was granted in terms of Schedule 3 Ground 12 of the Act as the rent payments had started to be in arrears since 28 March 2019 and had been continuously in arrears since then. In addition at the time the Tribunal first considered the merits of the Application and at the case management discussion on 31<sup>st</sup> January 2020 more than one month's rent was in arrears.

### **Findings in Fact**

12. The Applicant and Respondent entered into a Private Residential tenancy for the property on 29<sup>th</sup> January 2019 with monthly rent of £435.

13. Rent arrears started to build as of 28th March 2019 and the rent was continuously in arrears from that date until the date of the Application to the Tribunal.



14.As at the date of the Application to the Tribunal and the case management discussion on 31<sup>st</sup> January 2020 the arrears amounted to a sum greater than one month's rent for the property.

15.The rent arrears were not as a result of a delay or failure in payment of housing or another relevant benefit and such payments were paid directly to a letting agent.

16.A Notice to Leave in proper form was served on the Respondent on 5th November 2019.A Notice in terms of the Homelessness etc ( Scotland ) Act 2003 was sent to the appropriate local authority on 6<sup>th</sup> December 2019.

17.The Tribunal was of the view that the mandatory grounds under Ground 12(2) had been met in full and an eviction order must be made.

### **Reasons for Decision**

18.The Notice to Leave and Section 11 Notice had been properly served in this application and the Notice to Leave met the requirements of the 2016 Act.

19.The continuous rent arrears at the property since the end of March 2019 and the fact that more than one month 's rent was in arrears when the Tribunal considered the merits of the matter meant that the eviction was mandatory as the conditions under Ground 12(2) were met in full.

### **Decision**

20. The Tribunal granted an eviction order in terms of Section 51 of the 2016 Act having been satisfied that that for three or more consecutive months the rent for the property has been in arrears and the terms of Ground 12(2) , Schedule 3 of the Act are met in full.

### **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.**



  
Legal Member/Chair

31st January 2020.  
Date