

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

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**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/19/2236**

**Re: Property at 10 Roods Place, Kirriemuir, DD8 4EU ("the Property")**

**Parties:**

**Mr Colin Bandeen, c/o 23 South Tay Street, Dundee, DD1 1NR ("the Applicant")**

**Miss Kirsty Milne, 10 Roods Place, Kirriemuir, DD8 4EU ("the Respondent")**

**Tribunal Members:**

**Fiona Watson (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order is granted against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under grounds 12 and 14 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.**

- **Background**
  1. An application dated 18 July 2019 was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules"). Said application sought a repossession order against the Respondent on the basis of three grounds: the Respondent having breached a term of a private residential tenancy, being Ground 11; rent arrears accrued by the Respondent under a private residential tenancy, being Ground 12; and the Respondent having engaged in relevant antisocial behaviour, being Ground 14, all said Grounds under Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 ("2016 Act").

- Case Management Discussion

2. A Case Management Discussion ("CMD") took place on 25 September 2019. The Applicant was represented by his letting agent, Brian Stewart of BS Properties. There was no appearance by or on behalf of the Respondent.
3. The Applicant's representative moved for the Order to be granted as sought. The parties had entered into a Private Residential Tenancy Agreement ("the Agreement") which commenced in January 2018. The Respondent fell into rent arrears in March 2019 and there had been a continuous arrear since then. The rent arrears due at the date of the CMD stood at £3,150. The monthly rent was £450.
4. The Applicant's representative also submitted that the Respondent had engaged in relevant antisocial behaviour, and a letter was lodged from a Community Investigations and Resolution Officer of Angus Council which set out a number of incidents of noise nuisance at the property, together with a number of Police call-outs to the property.
5. A Notice to Leave had been served on the Respondent on the basis of Grounds, 11, 12 and 14 of Schedule 3 to the 2016 Act, on 16 April 2019. There had been no contact from the Respondent since then, nor rent paid, and she was still believed to be residing within the Property.
6. The Applicant's representative was unable to explain what separate and specific breach of tenancy they sought to rely on in terms of their reference to Ground 11 in both the Notice to Leave and the application. Accordingly, the Tribunal was not prepared to consider Ground 11 as a basis of the application, as no submissions were made on this ground nor evidence lodged.

- Findings in Fact

7. The Tribunal made the following findings in fact:

- (i) The parties entered into a Private Residential Tenancy Agreement ("the Agreement") which commenced on January 2018;
- (ii) In terms of the Agreement the Respondent was due to pay rent to the Applicant in the sum of £450 per calendar month;
- (iii) The Applicant has served a Notice to Leave on the Respondent on the basis of Grounds 11, 12 and 14 of Schedule 3 to the 2016 Act, and which was served on 16 April 2019;
- (iv) The Respondent has been in continuous arrears of rent since March 2019;
- (v) The Respondent is in arrears of rent amounting to £3,150 at the date of the CMD.
- (vi) The Respondent had engaged in relevant antisocial behaviour during the course of the Agreement.

- Reasons for Decision

8. The Tribunal was satisfied that the terms of Ground 12 of Schedule 3 to the 2016 Act had been met, namely that the Respondent has been in continuous arrears of rent for at least three months up to and including the date of the CMD and further that the arrears of rent are an amount which is greater than the amount due to be paid as one month's rent. The Tribunal was satisfied that a Notice to Leave had been served on the Respondent and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act.
9. The Tribunal was satisfied that the terms of Ground 14 of Schedule 3 to the 2016 Act had been met in that the Respondent had engaged in relevant antisocial behaviour during the course of the Agreement, and that a Notice to Leave had been served on the Respondent and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act.

- Decision

10. The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under grounds 12 and 14 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

## 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.**

  
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**Legal Member/Chair**

25/9/19  
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**Date**