

**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  
(Residential Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/EV/19/2558**

**Re: Property at 124 Glenacre Road, North Carbrain, Cumbernauld, G67 2PE  
("the Property")**

**Parties:**

**Mr Paul Mullan, Mrs Sharon Mullan, 104 Dunedin Drive, Hairmyres, East  
Kilbride, G75 8QH ("the Applicant")**

**Mr Daniel Greer, 124 Glenacre Road, North Carbrain, Cumbernauld, G67 2PE  
("the Respondent")**

**Tribunal Members:**

**George Clark (Legal 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 granted without a Hearing  
and issued an Eviction Order against the Respondent.**

**Background**

By application, received by the Tribunal on 14 August 2019, the Applicant sought an Eviction Order under Ground 12 of Schedule 3 to the Private Housing (Residential Tenancies) (Scotland) Act 2016 ("the 2016 Act").

The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 29 March 2019 with a monthly rent of £300 and a deposit of £300, a Notice to Leave, dated 4 July 2019, advising the Respondent that an application would not be lodged with the Tribunal before 4 August 2019 and that it would be made under Ground 12 of Schedule 3 to the 2016 Act and confirmation that there were arrears of rent from 29 April 2019 down to the date of the application.

On 23 September 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written

representations by 14 October 2019. The Respondent did not make any written representations to the Tribunal.

### **Case Management Discussion**

A Case Management Discussion was held at Glasgow Tribunals Centre, 20 York Street, Glasgow on the morning of 24 October 2019. The Applicant, Mrs Sharon Mullan, was present. The Respondent had advised the Tribunal by e-mail on 21 October 2019 that he would not be attending. Mrs Mullan told the Tribunal that no rental payments had been received since the date of the application and asked the Tribunal to issue an Eviction Order without a Hearing.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 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 and that it would determine 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 to the Act applies.

Ground 12 of Schedule 3 to the 2016 Act provides that it is an Eviction Ground that the tenant has been in rent arrears for three or more consecutive months and that the Tribunal must 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, and 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 was satisfied that the Respondent had been in arrears since 29 April 2019, that the arrears stood at more than one month's rent and that, as no evidence had been presented suggesting that the arrears were attributable to delay or failure in the payment of a relevant benefit, the requirements of Ground 12 of Schedule 3 to the 2016 Act had been met and the Tribunal was bound to issue an Eviction Order.

### **Decision**

The Tribunal determined that the application should be granted without a Hearing and issued 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

24 October 2019

Date

