



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016**

Reference number: FTS/HPC/EV/22/1694

Order granted on 7 October 2020 in absence of the Respondent

Property: 8 Newburgh Place, Bridge of Don, Aberdeen, AB22 8SW

Parties:

Ian Lindsay, residing at 21 Craigielea Gardens, Aberdeen, AB15 7XW (“the Applicant”)

Brenda Start, residing at 8 Newburgh Place, Bridge of Don, Aberdeen, AB22 8SW (“the Respondent”)

**Tribunal Members:**

**Paul Doyle (Legal Member)**

**Mike Scott (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 12 of part 3 of schedule 3 to the 2016 Act.**

**Background**

The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to leave, served on 9 November 2021, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

**Case Management Discussion**

A case management discussion took place by telephone conference at 2.00pm on 7 October 2022. The Applicant was present and represented by his daughter, Sandra

Masson. The hearing was delayed to allow sufficient time for the respondent to participate, but there was no appearance by or on behalf of the Respondent.

### **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a private residential tenancy Agreement for the Property dated 30 November 2018. The respondent took entry to the property on the same day.
2. The rent in terms of the Tenancy Agreement was £695 per month.
3. The respondent started to fall behind with her rental payments on 30 May 2019. The respondent has not made a full payment of the monthly rental since March 2020 and has not paid anything towards either current rental or the accumulating arrears since August 2021. At the date the application was submitted there were arrears of rent totalling £16,185.00 which is more than 3 months' rent. At today's date there are still arrears of rental totalling £19,660.00.
4. On 09 November 2021 the applicant served a notice to leave on the respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 26 May 2021, the applicant submitted an application to the tribunal.
5. The Applicant seeks recovery of possession of the Property in terms Ground 12 of part 3 of schedule 3 to the 2016 Act. The rental was twenty-six months in arrears at the date the application was submitted. No rental has been paid since the application was received by the tribunal.
6. The respondent offers no resistance to this application. Sheriff Officers served notice of this hearing on the respondent.
7. There is no suggestion that the respondent is in arrears of rent either wholly or partly as a consequence of a delay or failure in the payment of a relevant benefit. There is nothing to suggest that it is unreasonable to grant an order for repossession of the property. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

### **Reasons for the Decision**

The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in in terms Ground 12 of part 3 of schedule 3 to the 2016 Act is established. The respondent offers no defence to the application. For these reasons, the Tribunal determined to grant an Order for possession.

## **Decision**

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 12 of part 3 of schedule 3 to the 2016 Act.

## **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.**

**Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

**7 October 2022**

**Legal Member**