



**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/22/1405**

**Re: Property at 6 Rowett South Road, Aberdeen, AB21 9GB (“the Property”)**

**Parties:**

**Caste Rock Edinvar In Association With Places For People Scotland Limited, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)**

**Ms Gemma Stewart, 6 Rowett South Road, Aberdeen, AB21 9GB (“the Respondent”)**

**Tribunal Members:**

**Valerie Bremner (Legal Member) and Jane Heppenstall (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 as the Respondent has been in rent arrears for three or more consecutive months and it is reasonable on account of that fact to issue an eviction order.**

**Background**

1.This application for an eviction order in terms of Rule 109 of the Tribunal rules of procedure was first lodged with the Tribunal on 13<sup>th</sup> May 2022 along with a related application for a payment order (HPC/FTS/CV/22/1406).The applications were accepted by the Tribunal on 30<sup>th</sup> May 2022.A case management discussion was fixed for 17<sup>th</sup> August 2022 at 10am.

**Case Management Discussion**

2.The Applicant did not attend the case management discussion but was represented by Mr Caldwell solicitor of Patten and Prentice solicitors. There was no appearance

by or on behalf of the Respondent. The Tribunal members noted that the applications and supporting papers had been served on her by Sheriff Officers on 14<sup>th</sup> July 2022 by depositing these through the letterbox at the property. Mr Caldwell requested that the Tribunal deal with the matter in her absence and the tribunal was prepared to grant that motion given that there has been proper service of the applications and fair notice of the case management discussion given.

3.The Tribunal had sight of the applications, a tenancy agreement, a Notice to Leave, a covering letter sent with the Notice to Leave, an execution of service by Sheriff Officers for the Notice to Leave, a statement of arrears, a pre action protocol letter, a Notice in terms of Section 11 of the Homelessness etc (Scotland ) Act 2003, an email intimating this Notice to Aberdeen City Council together with an email confirming receipt of this notice. In addition, in relation to the payment order application there was an email with an up-to-date rent statement seeking to amend the sum due in terms of rent arrears to £10,326.03, the sum said to be due as at the end of July 2022.

4.The parties entered into a tenancy agreement at the property with effect from 5<sup>th</sup> July 2019 with monthly rent payable in advance of £590.The monthly rent was increased to £613.01 per month from June 2022 and the Respondent had been given 3 months' notice of the increase.

5.The property is a two-bedroom property, and the Respondent is understood to live there alone. When the tenancy started, she had been employed in an offshore boat rental company but more recently she had communicated using an email address which suggested that she was now self employed and running a graphic design company. By 25<sup>th</sup> June 2021 rent arrears had accrued in a sum in excess of £11,000.At that stage the last payment of rent had been made on 31<sup>st</sup> January 2020.The service of the Notice to Leave with an active date of 26<sup>th</sup> December 2021 appeared to have resulted in an approach from the Respondent who indicated that she would pay £6000 toward the arrears in November 2021 and then make payments of £1000 per month after that to include the monthly rent and payments towards the arrears.£6000 was paid at the start of November 2021 and two payments of £1000 were made on 7<sup>th</sup> December 2021 and 19 January 2022.No payments had been received since then and the rent arrears stood at £10,326.03 at the end of July 2022.

6.Mr Caldwell had been advised by his clients that they had chased for further payments after that date, but none had been received. On 14<sup>th</sup> July 2022 at 11.08pm on 14<sup>th</sup> July 2022, the same date as the tribunal application and papers were served at the property, the Respondent had emailed the Letting Agent apologising for not being in touch and indicating that she had had a number of health issues arising from Covid 19 and had been in and out of hospital. She indicated that she would make a payment at the end of July 2022 and was waiting to hear if she would receive any assistance from universal credit. She indicated that she wished to arrange a phone call when she was out of hospital. Nothing had been heard from her since that contact and no further payments towards the arrears had been made.

7.Mr Caldwell moved for an eviction order and pointed to the cover letter sent to the Respondent with the Notice to Leave and a more recent letter sent in May 2022 in

terms of the pre action protocol requirements signposting her to information on homelessness and the Covid 19 pandemic.

8. There was no information before the Tribunal to suggest that the rent arrears had accrued wholly or in part due to a delay or failure in the payment of a relevant benefit.

9. The Tribunal was satisfied that it had sufficient information upon which to make a decision and that the proceedings had been fair.

### **Findings in Fact**

10. The Applicant and Respondent entered into a private residential tenancy at the property with effect from 5<sup>th</sup> July 2019.

11. The monthly rent at the property was £590 per month payable in advance until June 2022 when this was raised to £613.01 per month.

12. Rent arrears as of June 2021 when a Notice to Leave was served were in excess of £11,000.

13. In November 2021 the Respondent paid £6000 towards the arrears and agreed that she would pay £1000 a month after that date to pay the monthly rent due and a sum towards the arrears each month.

14. Two payments of £1000 were made in December 2021 and January 2022 but no further payments were received.

15. The Respondent made contact in July 2022 with the Letting agents and indicated that she would make a payment towards the arrears at the end of July 2022, but no payment was forthcoming.

16. A Notice to Leave in proper form was served on the Respondent giving the correct notice period before Tribunal proceedings were commenced.

17. A Notice in terms of Section 11 of the Homelessness etc Scotland Act 2003 was intimated to Aberdeen City Council in relation to this application.

18. The Respondent was sent a letter in May 2022 signposting her to assistance with homelessness and the Covid19 pandemic.

19. The Respondent has been in rent arrears at the property for more than three consecutive months.

20. The rent arrears are not a consequence of any delay or failure in the payment of a relevant benefit.

### **Reasons for Decision**

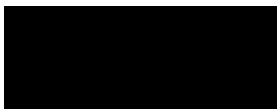
21. The Tribunal was satisfied that the eviction ground was made out and that the appropriate paperwork in proper form had been served giving the correct notice periods. The Pre action protocol had been complied with at least in part. The arrears the Tribunal was being asked to consider were substantial, in excess of £10,000 as at the end of July 2022. No rent had been paid for over 6 months and the Respondent had not appeared or lodged representations with the Tribunal. In all of the circumstances the Tribunal found that it is reasonable to grant the order.

## **Decision**

**The Tribunal granted an eviction order in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 as the Respondent has been in rent arrears for three or more consecutive months and it is reasonable on account of that fact to issue an eviction order.**

## **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**

**17.8.22**

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**Date**