



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

**Chamber Ref: FTS/HPC/EV/23/1885**

**Re: Property at 12 Branning Court, Commerical Street, Kirkcaldy, KY1 2PD (“the Property”)**

**Parties:**

**Mr Callum Wallace, Ujla Mohammed, 30 (1F2) Queensferry Street, Edinburgh, EH2 4QS; 37-39 Montrose Terrace, Edinburgh, EH7 5DJ (“the Applicant”)**

**Mr David Porteous, Lynne McLaughlin, 12 Branning Court, Commerical Street, Kirkcaldy, KY1 2PD; 82 Myrtle Crescent, Kirkcaldy, KY2 5DY (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Melanie Booth (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made an Eviction Order against Mr David Porteous.**

**Background**

[1] The Applicants seek to amend the eviction ground relied on from ground 12 to ground 12A of Schedule 3 of the Act and then have an Eviction Order then granted on that basis. The Application is accompanied by a copy of the tenancy agreement and relevant notices with proof of service together with correspondence entered into between the parties regarding the rent arrears.

## **The Case Management Discussion**

[2] The Application called for a Case Management Discussion (CMD) at 2pm on 25 August 2023. The Applicant was represented by Ms Herd of Complete Clarity Solicitors. The Second Respondent, Ms McLaughlin joined the call as did the First Respondent Mr David Porteous. It was agreed by all that Ms McLaughlin had long since left the Property and should not be considered liable for any aspect of the claim. Ms McLaughlin left the call with the consent of the Tribunal.

[3] Mr Porteous explained that his phone might run out of battery. It did. However not before Mr Porteous had been able to explain that he understood what the Tribunal was about and confirm that it was true that he had accrued the rent arrears founded upon. He explained that he was simply looking for “two weeks” to leave and that he was going to go down the “homeless route”.

[4] Having heard from parties and having considered the documentation before the Tribunal.

### **Findings in Fact**

- I. *The parties entered into a tenancy agreement, whereby the Applicants let the Property to the Respondents by virtue of a Private Residential Tenancy Agreement;*
- II. *The Second Respondent, Ms McLaughlin vacated the Property some time prior to the accrual of the rent arrears founded upon;*
- III. *Mr Porteous has fallen into rent arrears and now pays no rent each month. His current rent arrears total £5,900.00 with little or no prospect of repayment;*
- IV. *The Applicants have made ample attempts to assist Mr Porteous by pointing him in the direction of financial support;*
- V. *Mr Porteous has failed to implement any agreement or make good on any of the many assurances he has given the Applicants about making payments;*
- VI. *The Applicants have competently served a Notice to Leave in terms of ground 12 and it is now fair and reasonable to allow that Notice to Leave to be amended to ground 12 A on account of that ground now being met;*
- VII. *The Applicant has complied with all legislative and procedural requirements;*
- VIII. *It is reasonable that an Eviction Order is made against Mr David Porteous only.*

## **Decision**

[5] Having made the above findings in fact, the Tribunal decided to grant the Application and made an Eviction Order against Mr David Porteous.

## **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.

**Andrew McLaughlin**

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Legal Member/Chair

25 August 2023

Date