



**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 (“The Act”)**

**Chamber Ref: FTS/HPC/EV/22/3572**

**Re: Property at 28 Car Road, Cumnock, KA18 1HS (“the Property”)**

**Parties:**

**Mrs Elizabeth McNeill, 28 Dawnay Road, London, SW18 3PG (“the Applicant”)**

**Mr Stephen Hall, 28 Car Road, Cumnock, KA18 1HS (“the Respondent”)**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Ann Moore (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.**

**Background.**

The Applicant seeks an Eviction Order on the basis of ground 12 of Schedule 3 of the Act. The Application is accompanied by a copy of the relevant tenancy agreement, the notice to leave relied with proof of service, evidence of compliance with s 11 of the Homelessness (Etc) (Scotland) Act 2003 and rent statements.

**The Case Management Discussion.**

The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 17 March 2023. The Applicant was represented by Mr Fraser of Wallace Hodge and Co Solicitors. There was no appearance by the Respondent. The Application and

information about how to join the conference call had been competently served on the Respondent and so the Tribunal decided to proceed in the absence of the Respondent. The Tribunal invited Mr Fraser to address the Tribunal on the reasonableness of granting the Application and on how the terms of The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 are satisfied.

Having done so, the Tribunal made the following findings in fact.

- I. *The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondent by virtue of a Private Residential Tenancy that commenced on 1 October 2020;*
- II. *The contractual monthly rent was £250.00;*
- III. *The Respondent fell into rent arrears;*
- IV. *On 25 July 2022 the Applicant competently served a notice to leave on the Respondent on the basis of ground 12 of schedule 3 of the Act;*
- V. *At that date and also as at today's date, the ground relied upon is established;*
- VI. *The Respondent currently has arrears of rent in the sum of £4,250.00;*
- VII. *The Applicant has complied with s11 of the Homelessness (Etc) (Scotland) Act 2003;*
- VIII. *The parties are siblings. The Applicant has complied with the terms of The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 by enlisting a third sibling to attempt to mediate and resolve the issues between the parties. These efforts have been unsuccessful;*
- IX. *The Respondent has failed to engage in the Tribunal process;*
- X. *It is reasonable that an Eviction Order is granted.*

## **Decision**

Having made the above findings in fact, the Tribunal decided to grant the Application and made 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.

# A McLaughlin

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Legal Member/Chair

17 March 2023

Date