



**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/22/1263**

**Re: Property at 68 Beaufort Crescent, Kirkcaldy, KY2 5SH (“the Property”)**

**Parties:**

**Mr Thomas Norcross, 1 Duddingston Drive, Kirkcaldy, KY2 5JP (“the Applicant”)**

**Ms Katharine Ross Docherty, 68 Beaufort Crescent, Kirkcaldy, KY2 5SH (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Janine Green (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.**

**Background**

1. The Applicant submitted an application under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondent from the property.
2. By decision dated 19 May 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.
3. The Notice of Acceptance was intimated to the Applicant’s representative on 25 May 2022. The Tribunal intimated the application to the parties by letter of 16 June 2022 and advised them of the date, time and conference call details of today’s case management discussion. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has

sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 7 July 2022.

4. On 7 July 2022 the Tribunal received an email from the Respondent requesting an extension of time to lodge a written response and indicating that she was seeking legal representation. The Tribunal did not make a decision on that request. A further email was received from the Respondent on 28 July 2022 and the Tribunal responded to advise that the case management discussion would proceed on 1 August 2022 at 2pm by conference call.

### **The case management discussion**

5. The Applicant was represented by Miss Rossiter. The case management discussion took place by conference call and proceeded in the absence of the Respondent. The Respondent is believed to live alone in the property and is believed to be unemployed. The Respondent is in receipt of housing benefit. At the commencement of the tenancy, the Respondent received payment of housing benefit directly and she paid rent to the Applicant. From in or around November 2020, the Respondent failed to pass on housing benefit payments to the Applicant. The result of this is that arrears of rent have been incurred by the Respondent. The statement of rent lodged in support of the application shows that the rent arrears due by the Respondent amount to £2,057.32. The Applicant applied to have the housing benefit payments made directly to the Applicant and that now happens. The housing benefit payment covers the full rental charge. The Applicant's representative wrote to the Respondent on 6, 13 and 20 September 2021 providing details of the rent arrears and details of where the Respondent may seek advice. The Respondent was advised that the Applicant was willing to enter into a repayment plan. The Applicant did not receive a response to any of those letters. The Respondent has not made any proposal to repay the arrears of rent. The Applicant's representative submitted that it was reasonable in all of the circumstances to grant the order for eviction.

### **Findings in Fact**

6. The parties entered into a private residential tenancy which commenced 12 November 2019.
7. The Applicant's representative served the Notice to Leave on the Respondent by email on 21 October 2021.
8. The Respondent has been in arrears of rent for a continuous period of more than 3 consecutive months.

### **Reason for Decision**

9. The Tribunal proceeded on the basis of the written documents which were before it. The Applicant's representative invited the Tribunal to make the Order sought. The Applicant relied upon Ground 12 of Schedule 3 of the Private

Housing (Tenancies) (Scotland) Act 2016. The Respondent has been continuously in arrears of rent throughout the tenancy. The Respondent failed to submit any written representations and failed to take part in the case management discussion. There was nothing before the Tribunal challenging or disputing any of the evidence before it. There was nothing to indicate that the Respondent disputed the level of rent arrears as set out in the rent statement. The Tribunal was satisfied that it was reasonable to grant the order evicting the Respondent from the property.

### **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.**

# Nicola Irvine

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Legal Member/Chair

1 August 2022  
Date