



**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/22/1425**

**Re: Property at Flat 2/2, 4 Tower Terrace, Paisley, PA1 2JT (“the Property”)**

**Parties:**

**Mrs Jennifer Glen, 19 Glenfield Gardens, Paisley, PA2 8BF (“the Applicant”)**

**Ms Jean Cowan, Flat 2/2, 4 Tower Terrace, Paisley, PA1 2JT (“the Respondent”)**

**Tribunal Members:**

**Nicola Irvine (Legal Member) and Sandra Brydon (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 27 June 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 28 June 2022. The Tribunal intimated the application to the parties by letter of 26 July 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 16 August 2022. No written representations were received by the Tribunal.

### **The case management discussion**

4. The case management discussion took place by conference call. The Applicant was represented by Mrs Mullen. The Respondent participated in the discussion and was supported by Ms Michelle Stewart. This case called alongside a related case which proceeds under chamber reference FTS/HPC/CV/22/1426. The Respondent accepted that she had incurred rent arrears. She provided details of her personal and financial circumstances which she asked the Tribunal not to disclose in any written decision to follow. The Applicant's representative explained that the Respondent's failure to pay rent for a substantial period has caused the Applicant's household to suffer as a result of reduced income. If rent arrears continue to accrue, the Applicant would have to seek full time employment which would have a detrimental effect on the Applicant's family. The Applicant issued several letters to the Respondent in compliance with the pre-action protocol and notwithstanding that, rent arrears continued to increase. It was submitted that it was reasonable in all of the circumstances to grant the order for eviction.

### **Findings in Fact**

5. The parties entered into a private residential tenancy which commenced 1 July 2020.
6. The Applicant's representative served the Notice to Leave on the Respondent by email on 8 November 2021.
7. As at the date of the Notice served, the Respondent was in arrears of rent for more than 3 consecutive months.
8. As at the date of this case management discussion, the Respondent was in arrears of rent for more than 3 consecutive months.

### **Reason for Decision**

9. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Tribunal took account of the personal and financial circumstances of both parties. It was noted that the Respondent received the notice to leave almost 10 months ago. The updated rent statement lodged demonstrated that there are significant arrears of rent. The Respondent accepted that she had incurred rent arrears as disclosed on the rent statement lodged. She did not challenge the reasonableness of an order being granted. 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**

---

**Legal Member/Chair**

**5 September 2022**

---

**Date**