



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

**Chamber Ref: FTS/HPC/EV/22/3654**

**Re: Property at C15 George Street, Montrose, Angus, DD10 8EN (“the Property”)**

**Parties:**

**Adam Property Rentals Limited, 182-184 High Street, Montrose, Angus, DD10 8PH (“the Applicant”)**

**Mr James Goodlad, C15 George Street, Montrose, Angus, DD10 8EN (“the Respondent”)**

**Tribunal Members:**

**George Clark (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”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.**

**Background**

By application, received by the Tribunal on 4 October 2022, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 12 of Schedule 3 to the 2016 Act, namely that the Respondent has been in rent arrears for three or more consecutive months.

The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 18 October 2021 at a rent of £625 per month, a Notice to Leave, dated 19 August 2022, with proof of delivery, advising of the Applicant’s intention to apply for an Eviction Order under Ground 12 of Schedule 3 to the 2016 Act and that an application would not be made before 19 September 2022. They also provided a Rent Statement to 7 August 2022 showing rent arrears of £2,550, and evidence that the Rent Arrears Pre-Action Requirements (Coronavirus) Regulations 2020 had been complied with, namely a copy of a letter

sent to the Respondent on 11 May 2022, which confirmed the arrears, indicated willingness to work towards a Payment Plan and signposted the Respondent to sources of help and assistance, including Shelter Scotland and Citizens Advice.

On 8 December 2022, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 29 December 2022. The Respondent did not make any written representations to the Tribunal.

On 17 January 2023, the Applicant's solicitors, Bannatyne, Kirkwood, France & Co, Glasgow, provided an updated Rent Statement showing arrears at 18 December 2022 of £3,975. No rental payments had been made since 27 July 2022.

### **Case Management Discussion**

A Case Management Discussion was held by means of a telephone conference call on the morning of 31 January 2023. The Applicant was represented by Mr John Jarvie of Bannatyne, Kirkwood, France & Co. The Respondent was not present or represented.

The Applicant's representative told the Tribunal that the arrears currently stood at £3,975 and asked the Tribunal to find that, given the level of arrears and the length of time since any rent at all had been paid, it was reasonable to issue an Eviction Order. He told the Tribunal that the Respondent had failed to engage with the Applicant and had offered no explanation for the arrears.

Mr Jarvie then left the conference call and the Tribunal Members considered all the evidence before them.

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the Eviction Grounds named in Schedule 3 applies.

Ground 12 of Schedule 3 to the Act states that it is an Eviction Ground that the tenant has been in rent arrears for three or more consecutive months and that the Tribunal may find that Ground 12 applies if, at the beginning of the day on which the Tribunal first considers the application for an Eviction Order on its merits, the tenant is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, that the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and the Tribunal is satisfied that it is reasonable on account of that fact to issue an Eviction Order.

The Tribunal was satisfied that the Respondent had been in rent arrears for three or more consecutive months and that the current arrears exceeded one month's rent. No evidence was provided to suggest the arrears were in any way a consequence of a delay or failure in the payment of a relevant benefit. The Tribunal was also satisfied that the Pre-Action requirements had been met. Accordingly, the question for the Tribunal to determine was whether it would be reasonable to issue an Eviction Order.

The Tribunal noted that no rent at all had been paid since July 2022, that the payment then had only been £300 and that the last payment, prior to that date, had been on 18 April 2022. The arrears were substantial and long-standing and the Respondent had not sought to enter into any payment arrangement or to offer any explanation for his failure to pay rent over such a lengthy period. He had not provided any written representations to the Tribunal and had chosen not to be present or represented at the Case Management Discussion.

Having considered carefully all the evidence before it, The Tribunal decided that it was reasonable 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.**

George Clark

---

**Legal Member/Chair**

**31 January 2023**  
**Date**