



**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/18/3493**

**Re: Property at 14F Moncur Cresecent, Dundee, DD3 8AA (“the Property”)**

**Parties:**

**Mr Graeme Barr, 63 Kilmany Road, Wormit, Fife, DD6 8PH (“the Applicant”)**

**Miss Reagen Wishart, 14F Moncur Cresecent, Dundee, DD3 8AA (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member)**

**Decision**

**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 21 December 2018, the Applicant sought an eviction order under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 12 of Part 3 of Schedule 3 to the 2016 Act.

The application was accompanied by copies of a Notice to Leave dated 9 November 2018, informing the Respondent that the Applicant intended to apply to the Tribunal for an eviction order and advising that the application would not be submitted to the Tribunal for an eviction order before 10 December 2018, and a rental statement showing arrears as at 1 December 2018 of £1,800. The application was also accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 28 April 2018 at a rent of £450 per month.

On 6 March 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 25 March 2019.

The Respondent did not make any written representations to the Tribunal.

### **Case Management Discussion**

A Case Management Discussion was held at Hilltown Community Centre, Alexander Street, Dundee, on the afternoon of 29 March 2019. The Applicant was present. The Respondent was present and was represented by Mr Alan Hinrichs of Shelter Scotland, who told the Tribunal that the Respondent understood that the eviction order was being sought on a mandatory ground. The Respondent accepted that she had not made any payment of rent since the date of the application.

The Applicant asked the Tribunal to issue an eviction order without a hearing, as no payments of rent had been received since the payment due for August 2018..

### **Reasons for Decision**

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 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 and that it would decide the application without a hearing.

Ground 12 of Part 3 of Schedule 3 to the 2016 Act states that it is an eviction ground that the tenant has been in arrears for three or more consecutive months and that the Tribunal **must** find that Ground 12 applies if (a) 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, and (b) 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 relevant benefit.

The Tribunal was satisfied that the requirements of Ground 12 of part 3 of Schedule 3 to the 2016 Act had been met. The rent had been continuously in arrears since 28 September 2018. The rent was £450 per month. The Respondent had not provided any evidence to suggest that the arrears were in any way a consequence of a delay or failure in the payment of a relevant benefit. Accordingly, the Tribunal was bound to issue the eviction order.

### **Decision**

The Tribunal determined that the application should be decided without a hearing and issued an eviction order against the Respondent.

### **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

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Legal Member/Chair

29 March 2019  
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Date