

Housing and Property Chamber

First-tier Tribunal for Scotland



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/23/2542

Re: Property at Flat 3, 43 Montgomery Street, Edinburgh, EH7 5JX (“the Property”) and

Parties:

Square and Bridge Limited, 12 Green Wood, Kinross, Scotland KY13 8FG (“the Applicant”) and

Gilson Gray LLP, 29 Rutland Square, Edinburgh, EH1 2BW (“the Applicant’s Representative”) and

Mr Antonio Bove, Flat 3, 43 Montgomery Street, Edinburgh, EH7 5JX (“the Respondent”)

Tribunal Members:

**G McWilliams- Legal Member
E Munroe - Ordinary Member**

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined as follows:

Background

1. This Application, was brought in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).
2. The Applicant had provided the Tribunal, in the Application, with copies of the parties’ Private Residential Tenancy Agreement (“the PRT”), the Notice to

Leave served on the Respondent and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice intimated to Edinburgh Council. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied.

3. The Application papers and Guidance Notes had been validly served upon the Respondent.

Case Management Discussion

4. A Case Management Discussion ("CMD") proceeded remotely by telephone conference call on 30th November 2023. The Applicant's director Mr G Smith and their Representative's Mr D Gray, as the Respondent Mr Bove attended.
5. Mr Gray sought the grant of an eviction order on the basis of outstanding rent arrears in the sum of £12,100. Mr Bove accepted that the monthly rent due, in terms of the parties' PRT, is £1100.00 and that there are outstanding rent arrears of £11,000.00. After various statements and submissions were made by Mr Smith, Mr Gray and Mr Bove, it was agreed between them that Mr Bove, having identified alternative accommodation which he intends to move to by the end of January 2024, will vacate the Property by consent as soon as practicable. Mr Smith and Mr Gray undertook not to proceed with an eviction, in terms of any eviction order granted by the Tribunal, before 5th February 2024.

Findings in Fact and Law and Reasons for Decision

6. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") the Tribunal may issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
7. Schedule 3 (12) (A) to the 2016 Act provides that it is an eviction ground that the tenant has substantial rent arrears where the cumulative amount of the arrears equates to, or exceeds, an amount equivalent to for six months' rent.
8. The Tribunal considered all of the Application papers, including the PRT, Notice to Leave and Rent Statements lodged on behalf of the Applicant, as well as the statements and submissions of Mr Smith, Mr Gray and Mr Bove.
9. Mr Bove accepts that he has substantial rent arrears. He consents to the grant of an eviction order as he intends to leave the Property and has identified alternative accommodation which he plans to move to by the end of January 2024. Having considered all of the Application papers, statements and submissions, the Tribunal find in fact that the Respondent has substantial rent arrears. Relying, in particular, on Mr Bove's statements regarding his intention to move to fresh accommodation the Tribunal determine that it is reasonable that an eviction order be granted. Accordingly, the Tribunal find in law that

Ground 12A in Schedule 3 to the 2016 Act is met and that an eviction order should be granted.

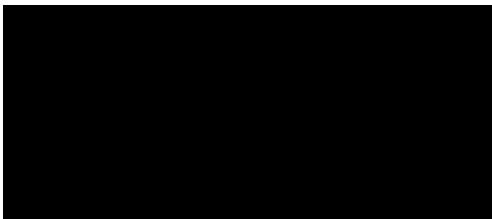
10. The Tribunal noted Mr Bove's statements that he hopes to settle the outstanding rent arrears from inheritance monies, following his recent sad loss of his brother and mother, and to provide Mr Smith with one week's notice of his date of departure from the Property. They noted that Mr Bove intends to redecorate and clean the Property before leaving. The Tribunal hopes that there will be positive communication between the parties in order to bring their PRT to an end in a dignified manner and so that all can then move on successfully.

Decision

11. The Tribunal therefore make an eviction order as sought in this Application.

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.



Legal Member

30th November 2023

Date