

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(1) of the private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/19/0493

Re: Property at 69 Kimberly Gardens, East Kilbride, G75 8HW ("the Property")

Parties:

Mr Jim Lambert, c/o JAK G LIMITED, 33 Kittoch Street, East Kilbride, G74 4JW ("the Applicant")

Mr Derek Stevenson, Ms Cheryl Gillespie, 69 Kimberly Gardens, East Kilbride, G75 8HW ("the Respondent")

Tribunal Members:

Jan Todd (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application for eviction should be granted.

- **Background**

1. A Case Management Discussion (CMD) was held at 2pm on 2nd May 2019 at Room 107 20 York Street Glasgow. Mr Jim Lambert the Applicant appeared in person. Neither respondent attended, nor did anyone appear on their behalf. There had been no reason intimated in advance for their non-appearance nor any request made for a postponement of the CMD. The Tribunal noted that valid intimation of the CMD had been made to each of the Respondents having seen a certificate of execution of service on each Respondent by Sheriff Officers on 12th April 2019. Accordingly the Tribunal proceeded to hold the CMD in the absence of the Respondents.

The Case Management Discussion

2. There were no written representations received from the Respondents.

3. Mr Lambert advised that the position remained as per his Application namely that the Respondents had entered into a lease in February 2018 but had never paid the full amount of rent due, that only the sum of £253.84 was received each month when the rent due was £450. He further advised that the sums paid were in respect of housing benefit and that the Respondents were due to pay the balance themselves but they had failed to do so. He confirmed they are more than 3 months in arrears at the current time.
4. There was a discussion about the Notices to Leave and it was noted this had been served on both Respondents by hand delivery at the Property giving the requisite 28 days' notice.

Findings in Fact

5. The parties entered into a lease of the Property which was dated and which commenced on 1st February 2018.
6. The Rent due was £450 per calendar month payable in advance
7. The Applicant produced a statement of rent showing that since the commencement of the lease only £253.84 had been paid per month with a balance of £196.16 accruing in arrears each month with a balance due as at 8th January 2019 of £2450.35.
8. There are currently over 3 months' rent outstanding.
9. The arrears of rent are not wholly or partly due to a delay or failure in payment of a relevant benefit.
10. A notice to leave was served on each Respondent on 6th November 2018 confirming that no proceedings would be raised before 6th December 2018.

• Reasons for Decision

11. The Tribunal was satisfied that the Respondents had been served with a valid Notice to Leave under S52 (3) of the 2016 Act specifying Ground 12 of Schedule 3 of the Act as the relevant ground of eviction.
12. The Tribunal accepted the verbal averments and written statement of rent arrears from the Applicant who was credible in his evidence of the Respondents having failed to pay the full rent throughout the whole duration of the tenancy. There being no response to counter this from the Respondents and the Tribunal being satisfied in terms of S 51 (1) of the Act that one of the eviction grounds named in Schedule 3 of the Act, namely Ground 12, is met, determined that the order for eviction sought by the Applicant should be granted.

• Decision

The order for eviction is granted.

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.

Jan Todd

Legal Member/Chair

2nd May 2019

Date