

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/19/1278

Re: Property at 33 Rushbank, Livingston, EH54 6EY (“the Property”)

Parties:

Mr Andrew Gray, 69 Columbia Avenue, Livingston, EH54 6PR (“the Applicant”)

Mr Donny Mitchell, Mrs Stephanie Mitchell, 33 Rushbank, Livingston, EH54 6EY; 33 Rushbank, Livingston, EH54 6EY (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 12 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

- **Background**

1. An application dated 25 April 2019 was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought a repossession order against the Respondent on the basis of rent arrears accrued by the Respondent under a private residential tenancy, being Ground 12 under Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”).

- **Case Management Discussion**

2. A Case Management Discussion (“CMD”) took place on 8 July 2019. The Applicant was personally present and accompanied by his letting agent, Glen Ballantyne of Homes 4 U. There was no appearance by or on behalf of the Respondent. The Tribunal was satisfied that the application had been intimated on the Respondents by way of Sheriff Officer on 6 June 2019 and accordingly the Respondents had sufficient intimation of the date and time of the CMD. Accordingly, the Tribunal was satisfied that the CMD could proceed in the Respondent’s absence.

3. A separate application by the Applicant seeking a payment order against the Respondents under Rule 111 of the Rules and under case reference FTS/HPC/CV/19/1283 was heard at the same time.
4. The Applicant moved for the Order to be granted as sought. The parties had entered into a Private Residential Tenancy Agreement (“the Agreement”), which commenced 19 July 2018. The Respondents had been in continuous rent arrears since August 2018. The rent arrears due at the date of the CMD stood at £4,805. The monthly rent was £795. A Notice to Leave had been served on the Respondents on the basis of Ground 12 of Schedule 3 to the 2016 Act, on 4 March 2019. The Respondents had contacted the Applicant and his agent since then and advised that they would remove from the Property and return their keys, but no keys had been returned to them. The Applicant wished to repossess the Property.

- Findings in Fact

5. The Tribunal made the following findings in fact:
 - (a) The parties entered into a Private Residential Tenancy Agreement (“the Agreement”) which commenced on 19 July 2018;
 - (b) In terms of Clause 8 of the Agreement the Respondents were due to pay rent to the Applicant in the sum of £795 per calendar month;
 - (c) The Applicant has served a Notice to Leave on the Respondents on the basis of Ground 12 of Schedule 3 to the 2016 Act, and which was served on 4 March 2019;
 - (d) The Respondents have been in continuous arrears of rent since August 2018;
 - (e) The Respondents were in arrears of rent amounting to £4,805 at the date of the CMD.

- Reasons for Decision

6. The Tribunal was satisfied that the terms of Ground 12 of Schedule 3 to the 2016 Act had been met, namely that the Respondents had been in continuous arrears of rent for at least three months up to and including the date of the CMD and further that the arrears of rent are an amount which is greater than the amount due to be paid as one month’s rent. The Tribunal was satisfied that a Notice to Leave had been served on the Respondents and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act.

- Decision
7. The Tribunal granted an order against the Respondents for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 12 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

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.

Fiona Watson

Legal Member/Chair

8/7/19

Date