

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/19/1294

Re: Property at 18 Victoria Street, Craighill, Livingston, EH54 5BG (“the Property”)

Parties:

Miss Laura Halil, 35 Stoneybank Road, Musselburgh, EH21 6HJ (“the Applicant”)

Mr Malick Sey, 18 Victoria Street, Craigshill, Livingston, EH54 5BG (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Order for Possession be granted.

1. By application received on 29 April 2019 (“the Application”), the Applicant made an application in terms of Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) for a possession order.
2. The Application comprised a copy of a private residential tenancy agreement between the Parties in terms of the Private Housing (Tenancies) (Scotland) Act 2016 evidencing that a tenancy of the between the Parties; a statement of rent due and owing showing a debit balance of £1,575.00 at 29 April 2019, being three rent instalments; a bank statement showing persistent late payment of rent ;a copy Notice to Leave citing Ground 12 to Schedule 3 of the Act with proof of delivery and copy Notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 to West Lothian Council being the relevant local authority with proof of delivery.
3. On 9 April 2019, a legal member of the Tribunal with delegated powers of the Chamber President accepted the Application and a Case Management Discussion (“CMD”) was fixed for 28 June 2019 at 10.00 at George House, 126 George Street, Edinburgh EH2 4HH. The CMD was intimated to the Parties.

4. Case Management Discussion

5. The CMD took place on 28 June 2019 at 10.00 at the said George House. Both Parties were present and unrepresented.
6. The Applicant advised me that, although some payments had been made by the Respondent, the rent is due and owing for the months April, May and June, all 2019. The Applicant advised me that the Respondent continues to make payment beyond the due date.
7. The Respondent agreed with the Applicant's position and advised me that he is in work and not entitled to or eligible for state benefits.

Findings in Fact

8. From the Application and the CMD, I found that a tenancy agreement exists between the Parties and that a Notice to Leave in the correct statutory format had been served on the Respondent by the Applicant. I found that at the beginning of the day on which the Tribunal first considered the Application and at the date of the CMD an amount of rent of more than an amount equal to or greater than one month's rent and rent arrears of more than three consecutive months due the rent is due and owing by the Respondent. I found that the notice in terms of Section 56 of the Act had been properly intimated to the relevant local authority. Accordingly, I found that the required statutory provisions had been satisfied.
9. From the CMD, I accepted that the Respondent is not eligible for housing benefit and so was satisfied that the rent arrears are not as a consequence of delay or failure of relevant benefits.

Decision and Reasons for Decision

10. Having found that the correct statutory procedure had been followed and that an eviction ground in terms of Paragraph 12 (1) (a) and (b) of Schedule 3 to the Act is satisfied, and, having found in terms of Paragraph 12 (4) of Schedule 3 to the Act that the rent arrears are not as a consequence of delay or failure of relevant benefits, I had regard to Section 51 of the Act which states that "the First-tier Tribunal is to issue an order if one of the grounds in schedule 3 applies".
11. I then had regard to Rule 17(4) of the Rules which state that the Tribunal "may do anything at a case management discussion which it may do at a hearing, including make a decision" and, accordingly, I determined to grant an Order for possession.

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.

Karen Moore

Legal Member/Chair

28 June 2019

Date