



**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/19/3290

Re: Property at 19A Griffiths Street, Falkirk, FK1 5QY (“the Property”)

Parties:

**Miss Eunice Clason, Mr David Finnegan, 4 Castle View, Aberdour, Fife, KY3 0UF
 (“the Applicant”)**

Mr Jamie Strickland, 19A Griffiths Street, Falkirk, FK1 5QY (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

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 11 October 2019, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 12 of Schedule 3 to the 2016 Act, namely that the Respondent has been in rent arrears for three or more consecutive months.

The Application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 26 June 2018 at a monthly rent of £350, a Rent Statement showing arrears as at 26 October 2019 of £5,250, with no rental payments having been made since 3 August 2018, and a Notice to Leave, dated 3 September 2019, advising the Respondent that the Applicant intended to apply to the Tribunal for an Eviction Order under Ground 12 and that the application would not be made before 6 October 2019.

On 24 December 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion. Intimation to the Respondent was by

advertisement on the Tribunal's website from 24 December 2019 until 30 January 2020.

Case Management Discussion

A Case Management Discussion was held at Wallace House, Maxwell Place, Stirling, on the afternoon of 30 January 2020. The Applicant was present. The Respondent was not present or represented. The Applicant advised the Tribunal that no rent had been received since the date of the application, that the Respondent appeared to have vacated the Property and asked the Tribunal to issue an Eviction Order without a Hearing.

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 to enable it to decide the application without a Hearing.

Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the Eviction Grounds named in Schedule 3 to the Act applies.

Ground 12 of Schedule 3 to the 2016 Act states that it is an Eviction Ground that the tenant has been in rent arrears for three or more consecutive months and that the Tribunal must find that Ground 12 applies if, 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 the Tribunal is satisfied that the tenant's being in arrears is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.

The Tribunal was satisfied that the Respondent had paid no rent whatsoever since 3 August 2018 and there was no evidence to suggest that the arrears were in any way attributable to delay or failure in the payment of a relevant benefit. Accordingly, the requirements of Ground 12 had been met and the Tribunal was bound to issue an 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.

G.C

Legal member/Chair

30 January 2020

Date