



**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) Act 2016 (the 2016 Act)**

Chamber Ref: FTS/HPC/EV/18/2703

Re: Property at 35 Outdale Avenue, Prestwick, KA9 1BY (“the Property”)

Parties:

**Mr Mohinder Deo, Mrs Kuldip Deo, c/o Key-Lets, 12 Parkhouse Street, Ayr, KA7
2HH (“the Applicant”)**

Mr Craig Bryce, 35 Outdale Avenue, Prestwick, KA9 1BY (“the Respondent”)

Tribunal Member:

Martin McAllister (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

**An eviction order be granted against the Respondent under a private
residential tenancy in respect of the Property**

Background

This is an application by the Applicant in respect of a private residential tenancy concerning the Property. The application is dated 10th October 2018 and is seeking repossession of the property and eviction of the Respondent because of rent arrears. A case management discussion was set down for 19th December and parties were asked to make any written representations by 14th December. None were received.

Case Management Discussion

This was held at Russell House Ayr on 19th December 2018. Mr Tim Williamson, agent of the Applicant was present. The Respondent was not present.

Preliminary Matters

Mr Williamson produced an email from the Respondent dated 13th December 2018 which stated "Hi Tim, I won't be able to make the meeting on the 19th can we reschedule thanks Craig"

This email was in response to an email sent by Mr Williamson dated 13th December 2018 which stated "You are advised to seek legal advice regarding your situation....Both matters could result in an order issued at the case meeting."

Mr Williamson produced an up to date rental statement which showed that the current level of arrears is £1,150.

Mr Williamson said that he was seeking an eviction order today.

The Case Management Discussion

I advised Mr Williamson of the purpose of the case management discussion with particular reference to Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

I had before me the following:

- Application dated 10th October 2018.
- Private residential tenancy agreement dated 29th March 2018.
- Copy of Notice under Homelessness (Scotland) Act 2003.
- Copy Notice to Leave dated 6th September 2018.
- Rental statement showing position as at 28th September 2018.
- Rental statement showing position as at 19th December 2018.
- Email correspondence between the Applicant's agent and the Respondent.
- Email exchange between the Applicant's agent and the Respondent dated 5th, 13th and 19th December 2018.
- Copy of letter from the Tribunal to the Respondent dated 26th November 2018.
- Copies of Sheriff Officer's certificate of service and supporting documents.

Mr Williamson did not identify any issues requiring resolution or any issues requiring to be addressed prior to any Hearing.

Mr Williamson submitted that a Hearing is not necessary and that it was in the interests of justice that matters be dealt with today and that an eviction order be granted.

Findings in Fact

1. The Respondent is a tenant in the Property in terms of a private residential tenancy agreement dated 29th March 2018.
2. The monthly rental is £550.
3. The Respondent has been in arrears of rent of no less than £275 for the period from 29th May 2018 to date.
4. The Respondent has been in arrears of rent of more than £550 for a period in excess of one month from today's date.
5. The Respondent has been in arrears of rent for a continuous period, up to and including today, of three or more consecutive months.

6. The Respondent has made no representations indicating that the arrears are wholly or partly as a consequence of delay or failure of payment of any benefit.
7. The appropriate notice had been given to the local authority in terms of the Homelessness (Scotland) Act 2003.
8. The appropriate notice to leave had been served on the respondent.

Reasons for Decision

I was satisfied with the documentary evidence before me in connection with the existence of the private residential tenancy, the notice to leave served on the Respondent and the notice served on the local authority.

The rent statements produced vouched that there were current arrears of £1150 and I accepted Mr Williamson's evidence that the rent statements were accurate. I found him credible.

In terms of Section 51 of the 2016 Act I can issue an eviction order against the Respondent if I find that one of the grounds in schedule 3 of the 2016 Act applies.

Mr Williamson said that he wanted the eviction order to be issued under ground 12 of schedule 3.

To issue an eviction order under this ground I require to be satisfied that the Respondent is in arrears of rent by an amount equal to or greater than one month's rent. One month's rent is £550 and the current arrears are £1150 and I am therefore satisfied in this regard.

I also require to be satisfied that, up to today, the Respondent is in arrears of rent for a period for three or more consecutive months. I am satisfied that the Respondent has been in arrears for more than six months.

For an eviction order to be issued I must be satisfied that the Respondent being in arrears of rent is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. No representations were made by the Respondent in this regard. Mr Williamson said that, at no time, did the Respondent indicate that there was an issue with regard to benefits or, indeed, that he was in receipt of benefits. Mr Williamson said that he had obtained references from the Respondent at the commencement of the tenancy which confirmed that he was employed and that this status had not changed.

I did consider whether it was appropriate to issue an eviction order in circumstances where the Respondent was not present but I considered that it was appropriate to do so. He had been advised of the case management discussion. Mr Williamson had stated in an email to him that he should be present and that an order could be made at the case management discussion. The date of the case management discussion was known to the Respondent and the Tribunal's letter to him dated 26th November made it clear that a tribunal could do anything at a case management discussion which it could do at a hearing including making an eviction order.

I did note the terms of the Respondent's email of 13th December 2018 but this gave no specific reason for wanting the matter rescheduled and I decided, on balance that

the Respondent had had sufficient opportunity to attend the case management discussion or arrange representation.

Decision

An eviction order be granted against the Respondent under a private residential tenancy in respect of the Property.

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.

Martin J McAllister

Martin J. McAllister
Legal Member/Chair

19th December 2018