

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 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/21/1505

Re: Property at 69 Byron Crescent, Dundee, DD3 6SS (“the Property”)

Parties:

Fixrole Limited, 12Milton Street, Dundee DD3 6QS (“the Applicant”) and

Pavillion Properties, 86 Bell Street, Dundee, DD1 1HN (“the Applicant’s Representative”) and

Ms Gillian Ingram, 69 Byron Crescent, Dundee, DD3 6SS (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

G Darroch- Ordinary Member

Decision in absence of the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined as follows:

Background

1. This Application, contained in papers lodged with the Tribunal between 22nd June 2021 and 8th July 2021, was brought in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).
2. The Applicant had provided the Tribunal, in the Application, with copies of the parties’ Private Residential Tenancy Agreement (“the PRT”), the Notice to Leave served on the Respondent and the Section 11 (Homelessness Etc.

(Scotland) Act 2003) Notice intimated to Dundee City Council. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied.

3. The Respondent had been validly served by Sheriff Officers with the Notification, Application papers and Guidance Notes from the Tribunal.

Case Management Discussions

4. A Case Management Discussion ("CMD") proceeded remotely by telephone conference call at 2pm on 2nd September 2021. Reference is made to the Notes on the CMD.
5. A further CMD proceeded remotely by telephone conference call at 2pm today, 16th November 2021. The Applicant's Representative's Mr W Baxter attended. The Respondent did not attend and was not represented.
6. Today's CMD was originally scheduled to call at 10am today. When neither Mr Baxter nor the Respondent attended, both were contacted by the Tribunal's office by phone. Mr Baxter said that he had noted in his diary to attend at 10.30am. The Tribunal's office was unsuccessful in their calls to the Respondent. They sent an email to the Respondent and she called the Tribunal's office at 10.20am today and stated that she was currently at work and unable to join a conference call this morning. The Respondent said that she had noted in her diary to attend the CMD at 2pm today. In the circumstances the Tribunal considered that it was fair and just to adjourn the CMD until 2pm today. Both parties were notified by email this morning of the adjournment of the CMD until 2pm this afternoon.
7. When the Respondent did not attend the CMD this afternoon the Tribunal's office called her, unsuccessfully.
8. Mr Baxter stated that it would be reasonable if an eviction order were granted as the Respondent was currently in arrears of rent in the sum of £4886.20, and that she had been in arrears of rent in more than three consecutive months. He stated that Universal Credit of £365.00 was still being paid each month but that no other rent had been paid by the Respondent, in respect of the balance of monthly rent due, of £235.00, or towards the arrears, since the original CMD had proceeded on 2nd September 2021. Mr Baxter submitted that as the Respondent had been served with all papers in respect of the Application for an eviction order, was aware of today's CMD and had not attended, and had not made any representations regarding the reasonableness of the granting of an eviction order, such an order should be granted.

Findings in Fact and Law and Reasons for Decision

9. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") the Tribunal is to issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
10. Schedule 3 (12) (1) of the 2016 Act provides that it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.
11. The Tribunal considered all of the Application papers, including the PRT, Notice to Leave and Rent Statements lodged by the Applicant's Representative, as well as Mr Baxter's representations and submissions.
12. The Respondent had not lodged any papers with the Tribunal in respect of the Application and, in particular regarding the reasonableness of the grant of an eviction order. She was aware of, but did not attend, today's CMD to provide any evidence, and/or make any submission, to oppose, and contradict the basis for, and reasonableness, of the order sought by the Applicant. The Tribunal noted that the rent arrears had increased from the last CMD on 2nd September 2021.
13. Having considered all of the available evidence and the representations and submission of Mr Baxter, the Tribunal finds in fact that the Respondent had been in rent arrears for three or more consecutive months at the date of the Application, and is in arrears of rent in the sum of £4886.20 at the present date. The Tribunal finds in law that the ground in Schedule 3 (12) (1) of the 2016 Act is met and determines that it is reasonable that an eviction order be granted at today's CMD.

Decision

14. The Tribunal therefore makes an eviction order as sought in this Application.

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 McWilliams

16th November 2021

Legal Member

Date