



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) (Scotland) Act 2016 (the 2016 Act) and Rule 109 of the First-tier Tribunal for Scotland Housing and property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/EV/18/3384

Re: Property at 43 Main Street, Kirkinner, Newton Stewart, DG8 9AN (“the Property”)

Parties:

Mrs Claire Jenkins, 4 Glenwood court, Sheffield, S6 1RE (“the Applicant”)

Miss Kirsty McMaster, 43 Main Street, Kirkinner, Newton Stewart, DG8 9AN (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member) and Gerard Darroch (Ordinary 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 in terms of Section 51(1) and Section 12, Part 3 of Schedule 3 of the 2016 Act.

Background.

This is an application for recovery of the Property on the grounds of non payment of rent. The application is dated 10th December 2018. A case management discussion was held on 17th April 2019 and Hearings were held on 21st May and 29th August, both 2019. The Respondent had previously made arrangements with the Applicant to pay arrears of rent. The Respondent had agreed to give this opportunity to the Applicant.

- (d) The Respondent is in arrears of rent amounting to £1,550.**
- (e) The Respondent has been in arrears of rent since July 2018.**
- (f) An appropriate notice under Section 11 of the Homelessness Etc. (Scotland) Act 2003 had been served on Dumfries and Galloway Council.**

Reasons for decision

- (1) Ms Cluckie submitted an up to date rent statement which showed arrears of £1,550. She said that no payment had been received since December 2019 when the sum of £350 had been paid of which £150 had been applied towards the September 2019 rent and £200 had been applied to the October 2019 rent.**
- (2) Ms Cluckie said that the Respondent had offered no explanation for non-payment. She advised the tribunal that, at the Hearing on 21st May 2019, an agreement had been reached between the Applicant and the Respondent whereby she was to pay the rent arrears at the level of £200 per month whilst at the same time maintaining rental payments. She said that this had not been adhered to although, on one occasion, a payment of £100 had been received.**
- (3) Ms Cluckie said that the Applicant was flexible and would have been content to work with the Respondent to address the arrears issue but that no payment of rent had been made since 1st December 2020.**
- (4) Ms Cluckie said that the Respondent had produced no documentary evidence with regard to her benefits position. The tribunal noted that, at the Hearing on 21st May 2020, the Respondent had said that her appeal in respect of Universal Credit had not been allowed. Ms Cluckie said that she inspected the Property on 25th October 2019 and took the opportunity to discuss the issue of rent arrears with the Respondent who had told her that her Benefits had been sorted out and that she was expecting a payment which she would apply to the rent arrears. Ms Cluckie said that she had encouraged the Respondent to keep her informed as to what was happening with resolution of the matter and had told her that the Landlord would be accommodating if she saw that an effort was being made to deal with the arrears.**
- (5) The tribunal found Ms Cluckie to be credible and accepted her evidence and the rent statement produced to it. The statement demonstrated that there was at least one month's rent due and that the Respondent had been in arrears of rent amounting to £1,550 and that she had been in arrears since July 2018.**
- (6) The tribunal had regard to Section 12 (2) (b) of Schedule 3 of the 2016 Act. The Respondent had produced no evidence or made representations with regard to her Benefits position. At the Hearing of 21st May 2019 the Respondent had stated that her Universal Credit**

appeal had not been allowed. Although she indicated to Ms Cluckie in October 2019 that she was expecting a payment in respect of Benefits, the tribunal was satisfied that the non-payment of arrears was not caused by a delay or failure in payment of a benefit.

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

Legal Member

3rd February 2020