

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/18/2249

Re: Property at 22 Windsor Road, Falkirk, FK1 5EJ (“the Property”)

Parties:

Mr Scott Douglas, 21 Moffat Avenue, Falkirk, FK2 8TB (“the Applicant”)

Ms Jade Jones, 22 Windsor Road, Falkirk, FK1 5EJ (“the Respondent”)

Tribunal Members:

Ewan Miller (Legal Member)

Decision (in absence of the Respondent)

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

Background

By way of an Application to the Tribunal dated 23 August 2018 the Applicant sought an Order for Eviction of the Respondent under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant was the owner and landlord of the Property. The Property was let by the Applicant to the Respondent.

Case Management Discussion

A Case Management Discussion took place at the John Player Building, Stirling Enterprise Park, Stirling on 23 November 2018 at 10am. The Applicant was present and was represented by Mr Lewis Kemp of Harper MacLeod, Citypoint, Edinburgh.

The Respondent was not present. The Tribunal noted that full copies of the application and papers had been served by Sheriff Officer on the Respondent timeously. On that basis the Tribunal was satisfied that it was appropriate to proceed in the absence of the Respondent as she had had adequate notice of the Case

Management Discussion and was aware that a decision could be made in her absence.

Findings in Fact

The Tribunal found the following facts to be established:-

- The Applicant was the owner of the Property
- The Applicant had let the Property to the Respondent by way of a private residential tenancy dated 16 February 2018.
- The rental due under the tenancy was £110 per week
- Whilst the Respondent had initially made payment of rent she had rapidly fallen in to arrears.
- At the date of the Applicant's application to the Tribunal the Respondent had been in rent arrears to the sum of £1795.
- A valid Notice to Leave had been served on the Respondent personally by the Applicant.
- The Respondent had failed to leave timeously following receipt of the Notice to Leave
- The arrears had existed for more than 3 consecutive months and more than one months rent was outstanding as at the date of the Case Management Discussion.

Reasons for the Decision

The Tribunal was readily satisfied that a mandatory ground for eviction had been established by the Applicant. The Applicant had produced evidence of the level of arrears. This showed a sum of £1795 to be outstanding. The arrears had been in existence for a continuous period of more than 3 months and more than one months rent was outstanding at the date of the Case Management Discussion. There was no evidence from the Respondent to refute the Applicant's evidence and the Tribunal had no reason to doubt the evidence produced by the Applicant. There was no evidence that there were issues relating to payment of benefits which might have given the Tribunal pause for thought. The mandatory ground set out in paragraph 12 of Schedule 3 of the Act had been met. The Respondent had been notified of the Case Management Discussion. The appropriate homelessness notice had been served by the Applicant's solicitor timeously. Accordingly the Tribunal was obliged to grant the order

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) determined that the Applicant was entitled to an Order for Eviction in order that he could regain possession of the Property from 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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Ewan Miller

Legal Member/Chair

Date

23/12/18