

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(1) of the Private Housing
(Tenancies) Act 2016
Chamber Ref: FTS/HPC/EV/19/0046**

Re: Property at 39 Lesley Quadrant, Bellshill, ML4 2SL (“the Property”)

Parties:

Mr Ian Elrick, 44 Crofthead Cres, Bellshill, ML4 2AF (“the Applicant”)

Mr Brian Wells, 39 Lesley Quadrant, Bellshill, ML4 2SL (“the Respondent”)

Tribunal Members:

Colin Dunipace (Legal Member) and Frances Wood (Ordinary Member)

Decision in absence of the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order should be made under section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016.

Background

- 1. This matter called as a full hearing in room 107 of the Glasgow Tribunal Centre, 28 York St, Glasgow G2 8GT on 7 May 2019. At this hearing the applicant was present and was represented by Ms Collette Lloyd of Independent Estates, 97 Main Street, Wishaw, ML2 7AU. The Respondent was not present nor was he represented at this hearing. Having examined the relevant documentation, the tribunal was satisfied that intimation of the hearing had been lawfully effected and accordingly having been so satisfied, determined that the hearing should proceed in the absence of the Respondent.**
- 2. By way of background it was noted that this application related to an action for eviction in terms of section 50 (1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 (the “2016 Act”), and related to the property at 39 Lesley Quadrant, Bellshill ML4 2SL. A copy of the tenancy agreement had been lodged with this application together with a copy of an initial termination letter, and a copy of the section 11 notice in**

terms of the Homelessness etc (Scotland) Act 2003. Given that the tenancy had erroneously been constituted a Short Assured Tenancy, a further notice to leave was served upon the Respondent on 14 November 2018. The eviction was sought on the grounds that the Respondent had breached a term of the tenancy agreement by moving additional people into the property in breach of the aforementioned agreement, and also on the basis that he was in arrears of rent for a period in excess of three consecutive months. In support of the latter part of the application, a copy bank statement was produced by the Applicant showing rental payments in respect of the property. Having regard to the terms of this bank statement the last payment of rent made by the Respondent had been on 26 July 2018.

3. At the hearing Ms Lloyd for the Applicant indicated that the application for eviction would be made solely on the grounds of the aforementioned unpaid rent. It was explained that the Applicant understood the position to be that the Respondent had moved out of the property sometime around February 2019. The Applicant had made some attempts to ascertain the exact position in this regard, but from the information available it would appear to be the case that the Respondent had vacated the property. The terms of the bank statement which had been submitted were stated to demonstrate that no payments of rent had been made by the Respondent since 26 July 2018. There were accordingly arrears of rent which had accrued over a nine-month period, these now amounting to £3150. The Applicant had received no contact whatsoever from the Respondent to indicate that he would pay these outstanding sums. The Order for eviction was accordingly therefore sought in terms of Ground 12(1) of Schedule Three of the 2016 act, on the basis that the Respondent was in arrears of rent for three or more consecutive months. The Applicant confirmed that to the best of his knowledge that the Respondent had not been in receipt of benefits and that he had been in full-time employment when he had commenced the tenancy.
4. Having considered the evidence which had been led in this regard the Tribunal was satisfied that the Applicant had established the factual position and that the Respondent had accumulated arrears of rent for a period in excess of three consecutive months.

Findings in Fact

- The parties had entered into a tenancy agreement in respect of the property at 39 Lesley Quadrant Bellshill on 20 January 2018. In terms of this tenancy agreement the Respondent was due to pay the sum of £350 per month by way of rental to the Applicant.
- The Respondent paid the appropriate sums due in respect of rent on five occasions ending on 26 July 2018. Since that date no payments of rent have been made by the Respondent.

Findings in fact and law

The Respondent being in arrears of rent for a period in excess of three months the Applicant is entitled to the order for eviction as sought.

Outcome

In these circumstances tribunal was satisfied that the Applicant had established the grounds on which this order had been sought and accordingly an order for eviction should be made in terms of section 51 (1) of the 2016 Acts.

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.

C Dunipace

Legal Member/Chair

Date

7/5/19