

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

Chamber Ref: FTS/HPC/EV/19/0572

Re: Property at 19 North Bank Park, Bo'ness, EH51 9UB ("the Property")

Parties:

Mrs Lisa Aitken, C/o The Key Place, 6 Vicar Street, Falkirk, FK1 1JL ("the Applicant")

Mr Michael Mitchell, 19 North Bank Park, Bo'ness, EH51 9UB ("the Respondent")

Tribunal Members:

Rory Cowan (Legal Member)

Decision

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

- Background

The Applicant lodged an application dated 21 February 2019 seeking an Eviction Order against the Respondent in relation to the Property based on rent arrears, more particularly ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (the Application).

- The Case Management Discussion

The Application called for a Case Management Discussion (CMD) on 2 May 2019. The Applicant was not present but was represented by a Mr Young of the Key Place, 6 Villa Street, Falkirk. The Respondent was in attendance but no response had been lodged by him to the Application in advance of the CMD.

The Applicant's representative confirmed that the rent arrears were currently £1,654.20 and that some arrears had been in place since at least September 2018. The position was that the Applicant therefore sought an Eviction Order for the

Property. The Respondent agreed that this was correct. The Respondent also confirmed that the arrears had not arisen as a result of any failures or delays in the payment of benefits. He indicated that he had lost his job and had been seriously assaulted leading to him being unable to pay his rent. He also confirmed that whilst he was now on universal credit and some payments were being made towards the ongoing rent liability, there was still a shortfall in the monthly rental. He was looking for work and once that was found he would seek to clear the arrears.

- Findings in Fact and Law

- 1) The tenancy between the Applicant and the Respondent is a private residential tenancy within the meaning of section 1 of the Private Housing (Tenancies) (Scotland) Act 2016.
- 2) That the rent due under that tenancy is £525 per calendar month.
- 3) That the Respondent is in arrears to the extent of £1,654.20 as at 2 May 2019.
- 4) That the Respondent has been in consistent arrears since on or around 28 September 2018.
- 5) That the arrears have not occurred as a result of any delays or failures in the payment of a relevant benefit.
- 6) That the Respondent has therefore committed a breach of ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
- 7) That standing the level of the arrears on the date of the Case Management Discussion, the breach gives rise to a mandatory ground for possession.
- 8) That the Applicant has complied with the notice requirements of section 54 of the Private Housing (Tenancies) (Scotland) Act 2016 and is therefore entitled to an Eviction Order.

- Reasons for Decision

The Respondent admitted that he had committed a breach of ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 as well as the level of arrears. Standing the level of those arrears, as at the date of the Case Management Discussion and there being no failure or delay in the payment of a relevant benefit, the breach gives rise to a mandatory ground for possession. The Applicant having complied with her notice requirements under the Private Housing (Tenancies) (Scotland) Act 2016, the tribunal has no discretion but to grant the Eviction Order

- Decision

To grant an Eviction Order in favour of the Applicant against the Respondent in relation to 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.

R Cowan

Legal Member/Chair

Date

2 May 2019