

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 ('the Act')

Chamber Ref: FTS/HPC/EV/20/0704

Re: Property at 19 Dunn Street, Flat 1/1, Clydebank, G81 4BH ("the Property")

Parties:

Ms Lorna Murray, 19 Kirkton, Flat 1, Old Kilpatrick, G60 5JL ("the Applicant")

Mr Anthony Anderson, 19 Dunn Street, Flat 1/1, Clydebank, G81 4BH ("the Respondent")

Tribunal Members:

Nairn Young (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that

- Background

This is an application for an eviction order to remove the Respondent from the Property, which he occupies in terms of a private residential tenancy agreement with the Applicant. It called for a case management discussion ('CMD') at 10am on 2 October 2020, by teleconference. The Applicant called in in person. The Respondent did not call in and was not represented on the call. The commencement of the CMD was delayed by 10 minutes to allow for any technical difficulties, but there was no contact from the Respondent. The Tribunal was satisfied that notice of the CMD had been served on the Respondent and decided to proceed in his absence.

- Findings in Fact

1. The Respondent lets the Property from the Applicant in terms of a private residential tenancy with a start date of 28 July 2018. In terms of that agreement rent of £375 is payable on the 28th day of every month.

2. On 15 January 2020, the Applicant sent a notice to leave to the Respondent by e-mail (via her agents). That notice stated that she was seeking eviction on the basis of ground 12 of Schedule 3 to the Act: i.e. that the Respondent had been in arrears of rent over three consecutive months. It stated that the earliest date that proceedings could be brought was 15 February 2020.
3. At the time of service of the notice to leave, the Respondent had been in arrears of rent for more than six consecutive months. He owed £2,567.60 in rent arrears.
4. Notification in terms of s.11 of the Homelessness etc. (Scotland) Act 2003 was given by the Applicant to the local authority on 27 February 2020. This application was raised later on the same date.
5. As at the date of this CMD, the Respondent was in arrears of rent of £4,426. He had not cleared his arrears at any point since the service of the notice to leave. There is no indication that the arrears are due wholly or partly to a delay or failure in the payment of a relevant benefit.

- Reasons for Decision

6. The Respondent is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy as of the day of the CMD; has been in arrears of rent for a continuous period, up to and including that day, of three or more consecutive months; and the Tribunal is satisfied that the Respondent's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. The Tribunal must therefore find Ground 12 of Schedule 3 to the Act to apply and consequently must grant an eviction order.

- Decision

Eviction order granted.

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.

Legal Member/Chair

02 October 2020
Date