

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) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/EV/21/2997

Re: Property at 17 Rennie Road, Kilsyth, Glasgow, G65 9PQ (“the Property”)

Parties:

**D & T Assets Limited, 7 Sallyport House, City Road, Newcastle Upon Tyne, NE1
2AE (“the Applicant”)**

Mr Blue Gray, 17 Rennie Road, Kilsyth, Glasgow, G65 9PQ (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the applicant was entitled to an order for the eviction
of the Respondent from the property.**

Background

1. By application dated 29 November 2021 the Applicant’s representatives T C Young, Solicitors, Glasgow, applied to the Tribunal for an order for the eviction of the Respondent from the property under ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). They submitted a copy of the tenancy agreement, Notice to Leave, email to the Respondent, Rent Statement, Section 11 notice, email to local authority and pre-action requirement correspondence in support of the application.
2. By notice of Acceptance dated 14 December 2021 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 20 January 2022.

The Case Management Discussion

4. A CMD was held by teleconference on 24 February 2022. The Applicant was represented by Miss Morrison from the Applicant's representatives. The Respondent did not attend nor was he represented. The Tribunal being satisfied that proper intimation of the CMD had been given to the Respondent determined to proceed in his absence.
5. Miss Morrison referred the Tribunal to the documents submitted with the application and confirmed that she was asking the Tribunal to grant an order for the eviction of the Respondent from the property. She explained that the sum now outstanding amounted to £7650.00. She confirmed that since taking occupancy of the property on 24 September 2020 the Respondent had failed to pay any rent or the required deposit.
6. Miss Morrison referred the Tribunal to the pre-action letters submitted with the application and advised the Tribunal that the Applicant had sent further correspondence to the Respondent in an attempt to engage with him and to try to agree a repayment programme but the Respondent had not responded.
7. The Tribunal noted that the Notice to Leave appeared to be in order as was the Section 11 notice sent to the Local Authority at the commencement of the proceedings.
8. The Tribunal queried if Miss Morrison had any knowledge of the Respondent's circumstances as it was obliged in terms of the Coronavirus (Scotland) Act 2020 to consider whether it would be reasonable to grant the order. Miss Morrison explained that all she knew was that the Respondent was single and lived alone. She had no other personal details. With regards to the Applicant, she explained that given the high level of arrears and the fact that the Respondent had made no payment at all since moving into the property and given the Respondent's failure to engage in any way with the Applicant it was reasonable to grant the order. Miss Morrison also pointed out that the Applicant had been unable to gain access to the property to carry out essential gas safety checks and that was the subject of a separate application to the Housing and Property Chamber.

Findings in Fact

9. The parties entered into a Private Residential Tenancy Agreement that commenced on 24 September 2020 at a rent of £425.00 per calendar month.
10. The Respondent failed to make any rent payments or pay the deposit.
11. The rent due as at the date of service of the Notice to Leave namely 5 January 2021 amounted to £2125.00.
12. The rent due at the date of the CMD amounted to £7650.00.

13. The Applicant sent pre-action letters to the Respondent on 3 and 12 November 2021 and on other dates.
14. The Applicant's representatives sent a Section 11 Notice to the Local Authority by email on 29 November 2021.
15. The Respondent has failed to respond to communications from the Applicant.

Reasons for Decision

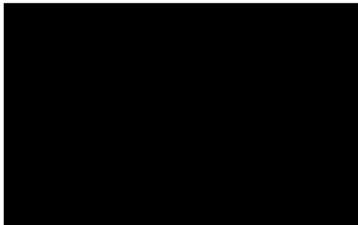
16. The Tribunal was satisfied from the documents produced and from the oral submissions from Miss Morrison at the CMD that the parties had entered into a Private Residential Tenancy Agreement at a monthly rent of £425.00. The Tribunal was also satisfied that the Respondent had made no payments at all throughout the tenancy and that at the time of service of the Notice to Leave the Respondent had been in arrears of rent for a period of three months.
17. The Tribunal was satisfied that the Notice to Leave had been properly served on the Respondent and that the pre-action protocols had been followed. The Tribunal was also satisfied that proper intimation of the proceedings had been given to North Lanarkshire Council by way of a Section 11 Notice.
18. The Tribunal was satisfied that as at the date of the CMD the total amount of rent due by the Respondent was £7650.00 and therefore the terms of Ground 12 of Schedule 3 of the 2016 Act were met subject to the Tribunal being satisfied that it was reasonable in the circumstances to grant the order. In reaching its decision the Tribunal took account of the fact that despite being given the opportunity to submit written representations and to attend the CMD the Respondent took no part in the proceedings. The Tribunal also considered that the fact that the Respondent had never made any payment of rent or paid the deposit and had never engaged at all with the Applicant was significant as was his failure to allow access to the property for gas safety checks. Taking everything into consideration the Tribunal was satisfied that it was reasonable to grant the order for eviction.

Decision

19. The Tribunal having carefully considered the documents submitted together with the written and oral representations finds the applicant entitled to an order for the eviction of the Respondent from the property under Ground 12 of Schedule 3 of the 2016 Act.

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.



**Graham Harding
Legal Member/Chair**

**24 February 2022
Date**