



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 (“The Act”)

Chamber Ref: FTS/HPC/EV/22/0849

Re: Property at 41C South Methven Street, Perth, PH1 5NU (“the Property”)

Parties:

Mrs Fiona Margaret Flood, Birmac, Isla Road, Perth, PH2 7HG (“the Applicant”)

Mr Patryk Kicinski, Miss Sandra Trojanek, 41C South Methven Street, Perth, PH1 5NU (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and David Fotheringham (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made an Eviction Order.

Background

The Applicant seeks an Eviction Order based on Ground 12 of Schedule 3 of the Act in that it is stated that the Respondents have been in arrears of rent, of at least one month’s worth of rent, for three consecutive months, both at the date of service of a Notice to Leave and also as at today’s date. The Application is accompanied by: a copy of the tenancy agreement between the parties; a rent statement; a Notice to Leave and proof of it having been served; the relevant notice under s 11 of the Homelessness Etc. (Scotland) Act 2003 and evidence of compliance with the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.

The Case Management Discussion

The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 18 August 2022. The Applicant was represented by Ms McCartney, solicitor of Kippen Campbell LLP. The Application called alongside a related case in respect of a Payment Order. There was no appearance by or on behalf of the Respondents. The Application and information about how to join the conference call had been competently served on the Respondents by Sheriff Officers on 15 July 2022. The Tribunal accordingly decided to proceed in the absence of both Respondents.

Having considered the Application and documentation produced therewith, and having heard from Ms McCartney, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The parties entered into a Private Residential Tenancy in respect of the Property which commenced on 10 February 2021;*
- II. *The Applicant was the landlord and the Respondents were the tenants of the Property in respect of that agreement;*
- III. *The contractual monthly rent was the sum of £430.00;*
- IV. *The Respondents quickly fell into rent arrears;*
- V. *The Applicant competently served a Notice to Leave on the basis of Ground 12 of Schedule 3 of the Act on the Respondents by email on 14 September 2021;*
- VI. *The Notice to Leave confirmed that if the Respondents did not vacate the Property by 15 March 2022 then an Application would be made to this Tribunal seeking an Eviction Order;*
- VII. *At the time the Notice to Leave was served, the Respondents had been in arrears of rent for a period of at least three months and the sums in arrears were at least equal to one month's worth of rent;*
- VIII. *The Applicant has complied with the requirements of the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;*
- IX. *The Applicant has complied with the terms of the Homelessness Etc. (Scotland) Act 2003;*

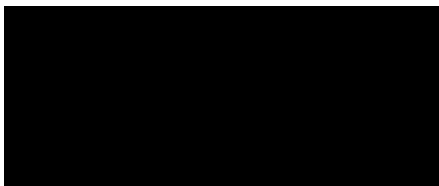
- X. *As at today's date, the Respondents are in arrears of rent of a sum in excess of £5,500.00. The Respondents have been in arrears of rent for a period of at least three months and the sums in arrears are at least equal to one month's worth of rent;*
- XI. *Ground 12 of Schedule 3 of the Act is established;*
- XII. *The Respondents are two adults, without children, and efforts that had been made by the landlord to reach a repayment agreement, were not adhered to by the Respondents. It is reasonable that the Eviction Order is granted.*

Reasons for Decision

Having made the above findings in fact, the Tribunal decided to grant the Application and made an Eviction Order. In doing so, the Tribunal had full regard to the reasonableness or otherwise of making such an order.

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

Date: 18/05/2022