

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

Chamber Ref: FTS/HPC/EV/22/2473

Re: Property at Flat 2/L, 21 Moorburn Road, Largs, KA30 9JA (“the Property”)

Parties:

Lochscape Property LLP, Lochscape House, Argyll Road, Kilcreggan, Helensburgh, G84 0JW (“Applicant”) and

Ms Eilidh Suzanne Beck, formerly residing at Flat 2/L, 21 Moorburn Road, Largs, KA30 9JA and whose present whereabouts are unknown (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

L Reid - Ordinary Member

Decision in absence of the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines as follows:

Background

1. This Application, was brought in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).
2. The Applicant had provided the Tribunal, in the Application, with copies of the parties’ Private Residential Tenancy Agreement (“the PRT”), the Notice to Leave served on the Respondent and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice intimated to North Ayrshire Council. All of these documents and forms had been correctly and validly prepared in terms of the

provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied.

3. The Application papers and Guidance Notes had been validly served upon the Respondent by Advertisement.
4. The Respondent had not lodged any representations in respect of the Application.

Case Management Discussions

5. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call on 24th January 2023. Reference is made to the Notes on that CMD, also dated 24th January 2023. A further CMD proceeded remotely by telephone conference call at 11.30am on 14th February 2023. The Applicant’s partner Mrs L Young attended. The Respondent did not attend and was not represented. Prior to the CMD on 14th February 2023 the Applicant had lodged an updated Rent Statement, on 24th January 2023, confirming outstanding rent arrears of £6060.00. Mrs Young was not able to provide any information regarding the whereabouts or current circumstances of the Respondent. She submitted that as the Respondent had been served with all papers in respect of the Application for an Eviction Order and had not attended the CMD on 24th January 2023 or today’s CMD, and had not made any representations regarding the reasonableness of the granting of an Eviction Order, such an Order should be granted.

Findings in Fact and Law and Reasons for Decision

6. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) the Tribunal is to issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
7. Schedule 3 (12) (1) of the 2016 Act provides that it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.
8. The Tribunal considered all of the Application papers, including the PRT, Notice to Leave and Rent Statements lodged by the Applicant, as well as the submission of the Applicant’s partner Mrs Young.
9. The Respondent had not lodged representations with the Tribunal regarding the reasonableness of the grant of an eviction order or attended the CMD to provide any evidence, and/or make any submission, to oppose, and contradict the basis for the order sought by the Applicant.
10. Having considered all of the evidence, representations and submissions, the Tribunal finds in fact that the Respondent had been in rent arrears for three or more consecutive months at the date of the Application, and is in arrears of

£6060.00 at the present date. The Tribunal finds in law that the ground in Schedule 3 (12) (1) of the 2016 Act is met and determines that it is reasonable that an eviction order be granted.

Decision

11. The Tribunal therefore makes an Eviction Order as sought in this Application.

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.

G McWilliams

14th February 2023

Legal Member

Date