

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/19/2710

Re: Property at 16 Brownside Drive, Glasgow, G13 4BN (“the Property”)

Parties:

Ms Rubbiya Wahwed, 37 Dave Barrie Avenue, Larkhall, ML9 1DW (“the Applicant”)

Ms Gail Craig, 16 Brownside Drive, Glasgow, G13 4BN (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the order to recover possession of the property.

Background

The Applicant submitted an application seeking an order to evict the Respondent from the property at 16 Brownside Drive, Glasgow, G13 4BN. The Tribunal issued a letter to the parties dated 29th October 2019 assigning a case management discussion for 3rd December 2019. The Tribunal received an application to postpone that case management discussion from the Respondent’s representative on 28th November 2019. Having considered the application, the Tribunal granted the request. A further case management discussion was assigned for today and parties were advised of that by letter of 18th December 2019. In that letter, the parties were also told that they required to attend the hearing and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. No written representations were received from the Respondent. A further application was made on 17th January 2020 by the Respondent’s representative, seeking to postpone

today's case management discussion. The Tribunal refused the application on the morning of 20th January 2020 and parties were advised that the case management discussion would proceed today.

The Case Management Discussion

The Applicant was represented by her solicitor, Mr Dominic Coyle. The case management discussion proceeded in the absence of the Respondent.

The Tribunal noted that there were no written representations made by the Respondent and the Tribunal was therefore unaware of the Respondent's position. The Applicant's solicitor advised that there has been no recent contact from the Respondent. He advised that the Respondent required the Applicant to carry out some work to the property and that the Respondent has tried to do so, but has been refused access to the property. The Applicant is not aware of any issues relating to benefits claimed by the Respondent which might explain her failure to pay rent. The Applicant's solicitor advised the Tribunal that the Applicant is suffering financial hardship as a consequence of the Respondent's failure to pay rent since April 2019.

The Applicant's solicitor advised that the order for eviction was sought on the basis of ground 12 of schedule 3 of the 2016 Act.

Findings in Fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement dated 28th February 2019.
2. The rent payable was £575 per month, payable in advance.
3. The Applicant served Notice to Leave by recorded delivery on 10th July 2019.
4. No rent has been paid by the Respondent since April 2019. The Respondent is therefore in arrears of rent for a sum which equates to more than 3 consecutive months of arrears.
5. The Applicant is entitled to the Order sought for repossession.

Reason for Decision

The Tribunal proceeded on the basis of the written documents which were before it. The Respondent was given an opportunity to provide written representations to the Tribunal; she failed to do so and she failed to attend the case management discussion. Although the Respondent sought to postpone today's case management discussion, the Tribunal must balance the interests of both parties. The Tribunal was advised that the Applicant is suffering financial hardship as a result of the Respondent's failure to pay rent. The Applicant's solicitor invited the Tribunal to make the Order sought. The Applicant relied upon Ground 12 of Schedule 3 of the

2016 Act. Ground 12 is a mandatory ground if the conditions set out are met. There was no information before the Tribunal to suggest that arrears had accrued as a consequence of a delay or failure in payment of benefits. The Tribunal was satisfied that the Respondent is in arrears of rent of more than one month's rent and that she has been in arrears of rent for a continuous period of more than 3 months. The Notice to Leave had been properly served. The Tribunal was satisfied that Ground 12 had been established. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

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.

N. Irvine

Legal Member/Chair

Date

20th January 2020
