

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 (Act)

Chamber Ref: FTS/HPC/EV/18/2826

Re: Property at 166 (PF3), Albert Street, Leith, EH7 5NA ("the Property")

Parties:

Mr Andrew Guthrie Hampton, 7 North Loanhead, Limekilns, Fife, KY11 3LA ("the Applicant")

Mr Grant William Luney, 166 (PF3), Albert Street, Leith, EH7 5NA ("the Respondent")

Tribunal Members:

Alan Strain (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") determined that the order for eviction/recovery of possession be granted.

Background

This is an application under section 51(1) of the Act (Ground 12) and Rule 109 of the Tribunal Procedure Rules.

The Tribunal had regard to the following documents:

1. Application received 18 October 2018;
2. Private Housing Tenancy (**PHT**) dated 30 March 2018;
3. Notice to Leave (**NLT**) dated 12 September 2018;
4. Email service of NTL dated 12 September 2018 and acknowledgement;
5. Section 11 Notice of 16 October 2018;
6. CMD Note of 7 March;
7. Notification of Hearing dated 9 April 2019 to the Respondent served by Recorded Delivery;

Mr Alan Strain

8. Up to date schedule of rent arrears.

Hearing

The case called for a Hearing on 1 May 2019. The Applicant was represented. The Respondent did not appear and was not represented. After enquiry the Tribunal were satisfied that the Respondent had been served with notification of the Hearing by letter of 9 April 2019.

The Tribunal considered that it was in the interests of justice and appropriate to proceed in absence of the Respondent.

The Tribunal heard evidence from Mr Behm (the Applicant's representative). From that evidence which the Tribunal considered credible and reliable, the Tribunal made the following findings in fact:

1. The Parties entered in to the PHT on 30 March 2018;
2. The monthly rent was £650;
3. As at the date of the Hearing the arrears of rent were £3,550 which was in excess of 5 months' rent;
4. The Respondent had been in arrears for a period in excess of 3 months;
5. The arrears were not due to any failure or delay to make payment of a relevant benefit.

The Tribunal considered Ground 12 of Schedule 3 to the Act. The Tribunal were satisfied that the elements of Ground 12 were made out and it was appropriate to grant the order sought.

The Decision of the Tribunal was unanimous.

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.

Mr Alan Strain

Legal Member/Chair

Date

1 May 2019