

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/20/1577

Re: Property at 26C Balmullo Square, Douglas, Dundee, DD4 8QL (“the Property”)

Parties:

Mrs Jill Danskin, 64 B Rectory Road, London, N16 7SH (“the Applicant”),

Contempo Property, Castlecroft Business Centre, Tom Johnston Road, Dundee, DD4 8XD (“the Applicant’s Representative”) and

Mr Allan McNicol, 26C Balmullo Square, Douglas, Dundee, DD4 8QL (“the Respondent”)

Tribunal Member:

G McWilliams- Legal Member

Decision in absence of the Respondent

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

Background

1. This is an Application dated 23rd July 2020 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.
2. The Applicant’s Representative 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 Dundee City 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. The Representative also submitted a Rent Payments Statement.

3. The Respondent had been validly served by Sheriff Officers with the Notification, Application papers and Guidance Notes from the Tribunal on 7th September 2020, and the Certificate of Service was produced.

Case Management Discussion

4. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 10am on 1st October 2020. The Applicant’s Representative’s Mr G Wanless attended. The Respondent did not attend and was not represented. Mr Wanless stated that the Respondent had been in arrears of rent for three or more consecutive months at the time of lodging of the Application and that the Respondent had not paid any rent since then. Mr Wanless stated that the outstanding rent was now in the sum of £5270.28. He submitted that as the Respondent had been effectively served with all papers in respect of the Application for an eviction order, and had not lodged any representations with the Tribunal, nor attended at the CMD, the eviction order should be granted.

Statement of Reasons

5. 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.
6. 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.
7. The Respondent had not lodged representations with the Tribunal or attended the CMD to provide any evidence, and/or make any submission, opposing the order sought. Having considered the Application, the PRT and the Rent Statement, as well as the submission of the Representative’s Mr Wanless, the Tribunal was satisfied that the Respondent had been in rent arrears for three or more consecutive months at the date of the Application, and at the present date. Accordingly the Tribunal determined that an eviction order should be granted.

Decision

8. The Tribunal therefore made 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.

Gerald McWilliams

G McWilliams

1st October 2020

Legal Member

Date