

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/18/2400

Re: Property at 30 Motehill Road, Paisley, PA3 4ST ("the Property")

Parties:

Mr Sahib Ahmed Qureshi, 51 Shieldhall Road, Glasgow, G51 4XB ("the Applicant")

Mr Andrew Colin Scougall, 30 Motehill Road, Paisley, PA3 4ST ("the Respondent")

Tribunal Members:

Lynsey MacDonald (Legal 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 should be granted.

1. Background

- 1.1. The Applicant sought an order for eviction in respect of the property on the grounds that there were rent arrears for three or more consecutive months. An application in terms of Rule 109 (Private Residential Tenancy Eviction Order) was received by the Tribunal on 7th September 2018.
- 1.2. The Applicant separately lodged an application in respect of rent arrears.
- 1.3. The Applicant lodged the lease dated 12th January 2018, the notice to leave dated 23rd July 2018 together with an execution of service thereof, a section 11 notice dated 6th September 2018, a rent statement, and bank statements.

- 1.4. The Tribunal fixed a Case Management Discussion in respect of each case for 14th November 2018 at 1400 hours, and this was intimated to parties. The Respondent was served with the letters informing of the date fixed for the Case Management Discussion, together with the aforementioned documents, by Sheriff Officer. The Respondent was advised that written representations in response to the applications were to be lodged by 9th November 2018. No responses have been received. The Respondent was also told that he was required to attend the Case Management Discussion today, and was informed that the Tribunal could today make any decision on the application that could be made at the full Hearing, if the Tribunal had sufficient information and considered that the procedure had been fair.

2. The Case Management Discussion

- 2.1. The Applicant was represented by Ms Eilidh Crawford, Solicitor.
- 2.2. By 1400 hours the Respondent the Respondent had failed to attend at the venue. The Tribunal delayed in calling the Case Management Discussion, in order to allow extra time for the Respondent to attend in the event that he was running late. The Respondent failed to attend the Case Management Discussion.
- 2.3. The Applicant invited the Tribunal to proceed in the absence of the Respondent, and to grant both orders. The Clerk confirmed that the Respondent had not been in contact with the Tribunal to explain his absence. The Applicant confirmed that the Respondent had not made any contact with the Applicant following service of the Notice to Leave. The Tribunal was satisfied that the Respondent was aware of the Case Management Discussion, and that it was fair to proceed in his absence.
- 2.4. The Applicant advised that there was a mathematical error in the rent statement, which had indicated that the rent outstanding 12th August was £2,100 when it should be £2,400. In addition she provided an up to date rent statement confirming that there had been no rent payments since 4th May 2018.
- 2.5. The Tribunal proceeded on the basis of the written documents which had previously been lodged, together with oral submissions from the Applicant in respect of those documents.

3. Findings in Fact

- 3.1. The Applicant and the Respondent entered into a tenancy agreement on 12th January 2018, with the start date for the agreement being 12th January 2018. The period of the lease was for six months, and provided for monthly renewal.
- 3.2. The rent payable was £600 per calendar month.
- 3.3. The Respondent made rent payments in respect of rent due for January to April 2018. A payment for rent was made on 4th May 2018, which was in respect of rent due on 12th April 2018. The Respondent made no further rent payments in respect of the property.
- 3.4. On 24th July 2018 a Notice to Leave was served on the Respondent by Sheriff Officer, indicating that possession of the property was required by 22nd August 2018.
- 3.5. The Respondent did not vacate the property.
- 3.6. The Application was submitted after the expiry of the notice period.

4. Reasons for Decision

- 4.1. There was nothing before the Tribunal challenging or disputing any of the evidence before it.
- 4.2. Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") provides that, *"The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies"*.
- 4.3. Schedule 3, paragraph 12(1) and (2) of the 2016 Act provides that:
 - (1) *It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.*
 - (2) *The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if-*
 - (a) *At the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, the tenant-*
 - (i) *Is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and*
 - (ii) *Has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months;*

(b) The Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.

- 4.4. The Tribunal accepts that the Respondent is in rent arrears of more than £600, which represents one month's rent.
- 4.5. The Tribunal accepts that the Respondent has been in rent arrears for a continuous period of more than three consecutive months.
- 4.6. There was no evidence that the rent arrears was wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
- 4.7. Accordingly, the Tribunal was satisfied that grounds were met and that the Tribunal was required to grant the order.

5. Decision

- 5.1. The order for eviction is granted.

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.

Lynsey MacDonald

Legal Member/Chair

14/11/18
Date

*Insert or Delete as required