

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/23/2882

Re: Property at Flat 8, 15 Dalcross Street, Partick, G11 5RE (“the Property”)

Parties:

Mr Arthur Stewart and Mrs Geraldine Stewart, both residing at 111 Yoker Mill Road, Glasgow G13 4HL (“the Applicants”) and

Jackson Boyd Lawyers, Centenary House, 69 Wellington Street, Glasgow, G2 6HG (“the Applicants’ Representative”) and

Miss Esha Avinash Kamble residing at Flat 8, 15 Dalcross Street, Partick, G11 5RE 41A (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

J Heppenstall - 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’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 Respondents and the Section 11

(Homelessness Etc. (Scotland) Act 2003) Notice intimated to Glasgow 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.

3. The Application papers and Guidance Notes had been personally served upon the Respondent Miss Kamble by Sheriff Officers on 31st October 2023.
4. The Respondent had not lodged any representations in respect of the Application.

Case Management Discussion

5. A Case Management Discussion (“CMD”) proceeded by remote teleconference call on 8th December 2023. The Applicant’s Representative’s Ms G White attended. The Applicant Mr Stewart also attended. The Respondent Miss Kamble did not attend and was not represented. There was no explanation for her absence.
6. Ms White referred to the Application and the amount of rent arrears owing, of £3900.00, when it was submitted. She stated that the arrears now owing are £7247.50. Ms White said that the letting agents, who manage the Property for the Applicants, had not received any rental payments, or communications, from Miss Kamble since February 2023.
7. Mr Stewart said that the Property is one of five properties which he and his wife rent to provide them with income in their retirement. He said that there is no mortgage in respect of the Property. Mr Stewart stated that Miss Kamble had said that she would pay monthly rent and monies towards arrears from September 2022 but had not done so.
8. Ms White and Mr Stewart said that they did not have any information regarding Miss Kamble’s current personal circumstances.
9. Ms White submitted that as no rent had been paid by Ms Kamble, and no communications received from her, since February 2023, the rent arrears are now in the sum of £7247.50 and as Miss Kamble was personally served with the Application papers and had not made any representations, before or at the CMD, it was fair and reasonable for an eviction order to be granted. Ms White acknowledged that as the Application proceeded under Ground 12 in Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) any eviction order granted cannot be enforced for a period of 6 months, or on an earlier date if there is any alteration to the provisions of the Cost of Living (Tenant Protection) (Scotland) Act 2022.

Findings in Fact and Law and Reasons for Decision

10. 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.
11. 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.
12. 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 submissions of the Applicant Mr Stewart and the Applicant's Representative's Ms White.
13. 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 Applicants.
14. Having considered all of the evidence 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 £7247.50 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

15. 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.



Legal Member

8th December 2023

Date

