



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“The Act”)

Chamber Ref: FTS/HPC/EV/23/4135

Re: Property at 47A Mid Beveridge Well, Dunfermline, KY12 9ES (“the Property”)

Parties:

Mr Gregor McNeish, 15 Dean Ridge, Gowkhall, Dunfermline, KY12 9PE (“the Applicant”)

Mr Scott McLuskey, 47A Mid Beveridge Well, Dunfermline, KY12 9ES (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order.

Background

[2] The Applicant seeks an Eviction Order under ground 12 of Schedule 3 of the Act. The Application is accompanied by a copy of the relevant tenancy agreement, the relevant statutory notices relied on and significant correspondence between the parties regarding the rent arrears founded upon in the Application.

The Case Management Discussion

[3] The Application called for a Case Management Discussion (“CMD) by conference call at 10 am on 26 April 2024. The Applicant was personally present together with his representative, Mr McCran, solicitor. There was no appearance by or on behalf of the Respondent. The Application and information about how to join the conference call had been served on the Respondent by Sheriff Officers. The Tribunal therefore decided to proceed in the absence of the Respondent.

[4] Having considered the papers and having heard from Mr McCran, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondent by virtue of a Private Residential Tenancy;*
- II. *The Respondent fell into rent arrears;*
- III. *The Applicant competently served a notice to leave on the Respondent under ground 12 of Schedule 3 of the Act;*
- IV. *The ground relied on in the notice was established at the date of service of the notice and remains established as at today’s date;*
- V. *The Applicant has complied with The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;*
- VI. *The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003;*
- VII. *The Respondent remains in arrears of rent in the sum of £6,758.34;*
- VIII. *The Respondent has failed to engage with the Tribunal process.*

Reasons for Decision

[5] Having made the above findings in fact, the Tribunal found that Ground 12 of Schedule 3 of the Act was established. The Tribunal carefully considered the reasonableness or otherwise of making the order sought. The Tribunal noted that no rent had been paid for almost a year. The Applicant had been patient and had offered the Respondent numerous payment plans which had not been stuck to by the Respondent. The Tribunal could find no basis for concluding that it would not be reasonable to grant an Eviction Order. The Tribunal positively concluded that it was reasonable to grant the order. The Tribunal granted the 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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

A. McLaughlin

Legal Member/Chair

26 April 2024
Date