



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

Chamber Ref: FTS/HPC/EV/24/0094

Re: Property at 91 Ladysmill Court, Falkirk, FK2 9AP (“the Property”)

Parties:

Just Lettings Ltd, Brewlands House, Abbey Road, Dalkeith, EH22 3AD (“the Applicant”)

Mr Alan Cartwright, 91 Ladysmill Court, Falkirk, FK2 9AP (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property

Background

1. By application dated 9 January 2024 the Applicant’s representatives, Gilson Gray LLP, Solicitors, Edinburgh applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant submitted a copy of a tenancy agreement, Notice to Leave, Section 11 Notice and pre-action letters Letter from Estate Agents in support of the application.
2. By Notice of Acceptance dated 5 February 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 17 April 2024.

4. By email dated 23 April 2024 the Applicant's representatives submitted an updated rent statement showing the rent due as at 5 April 2024 to be £7744.00.

The Case Management Discussion

5. A CMD was held by teleconference on 22 May 2024. The Applicant was represented by Mr David Gray from Gilson Gray LLP. The Respondent did not attend nor was he represented. The Tribunal being satisfied that proper intimation of the CMD had been given to the Respondent determined to proceed in his absence.
6. Mr Gray explained that he was seeking an order for the eviction of the Respondent under Ground 12 of Schedule 3 of the 2016 Act. He explained that the current rent arrears amounted to £7744.00 and that there had been no communication from the Respondent since November 2023.
7. Mr Gray confirmed pre-action letters had been sent to the Respondent on 21 December 2023 and 8 January 2024.
8. The Tribunal noted that a Notice to Leave had been served on the Respondent on 25 October 2023 and a Section 11 Notice intimated to Edinburgh City Council by email on 20 December 2023.
9. Mr Gray advised the Tribunal that it had been thought recently that the Respondent had vacated the property but on making enquiries about three weeks earlier it had been established that the Respondent was still in occupation. Mr Gray explained that the Respondent was 32 years old and in employment, sometimes working in Ireland and not in receipt of benefits. Mr Gray said the Respondent did not have a bank account and when he did pay rent it was in cash. Mr Gray went on to say that the Applicant had 56 rental properties and there was a heritable security over the property for which the Applicant was paying £400.48 per month. Mr Gray confirmed the monthly rent for the property was £600.00.

Findings in Fact

10. The Respondent commenced a Private Residential Tenancy of the property on 5 August 2022.
11. A Notice to Leave under Ground 12 of Schedule 3 of the 2016 Act was served on the Respondent on 25 October 2023.
12. A Section 11 Notice was sent to Edinburgh City Council on 20 December 2023.

13. The Respondent owed rent of £4036.00 at the date of service of the Notice to Leave.
14. The Respondent currently owes rent of £7744.00.
15. The Respondent was sent pre-action letters by the Applicant's representatives on 21 December 2023 and 8 January 2024.
16. The Respondent is believed to be in employment.
17. The Applicant has granted a standard security over the property and pays £400.48 each month to the heritable creditor.

Reasons for Decision

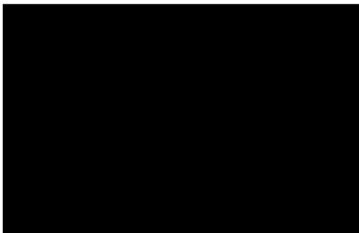
18. The Tribunal was satisfied from the documents submitted and the oral submissions of Mr Gray that the parties entered into a Private Residential tenancy that commenced on 5 August 2022. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Ground 12 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to Edinburgh City Council by way of a Section 11 Notice. The Tribunal was also satisfied from the documents produced that pre-action letters had been sent to the Respondent.
19. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondent from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal noted that despite being given an opportunity to submit written representations and to attend the CMD the Respondent had chosen to do neither. The Tribunal noted that the Respondent was making no effort to pay rent and the arrears were continuing to rise. It also seemed that the Respondent had employment in Ireland but chose not to pay rent. The Tribunal noted that the Applicant although a commercial landlord with a significant portfolio of properties had a mortgage to pay on the property amounting to £400.48 per month.
20. After carefully considering the circumstances, the Tribunal was persuaded that it was reasonable to grant an order for the eviction of the Respondent from the property.

Decision

21. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing, finds the Applicant entitled to an order for the eviction of the Respondent from the property.

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.



**Graham Harding
Legal Member/Chair**

**22 May 2024
Date**