



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 (“The Act”)

Chamber Ref: FTS/HPC/EV/24/0687

Re: Property at 38 Burnside Crescent, Fauldhouse,, Bathgate, West Lothian, EH47 9JB (“the Property”)

Parties:

Miss Ann Gardiner, 23 Harburn Drive, West Calder, West Lothian, EH55 8AL (“the Applicant”)

Mr Jake O'Hara, 38 Burnside Crescent, Fauldhouse,, Bathgate, West Lothian, EH47 9JB (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Elizabeth Williams (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 12A of Schedule 3 of the Act. The Application is accompanied by a copy of the relevant tenancy agreement, the notice to leave with proof of service, the relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 and a rent statement. There is also evidence of compliance with *The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020*.

The Case Management Discussion

[3] The Application called for a Case Management Discussion (“CMD”), by conference call at 10am on 3 July 2024. The Applicant was represented by Ms Wooley, solicitor. The Respondent was not in attendance. The Respondent had received intimation of the Application and information about how to join the conference call by Sheriff Officers. The Tribunal therefore decided to proceed in the absence of the Respondent.

[4] Having heard from the Applicant’s representative and considered the whole facts and circumstances of the case, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The Applicant let the Property to the Respondent by virtue of a Private Residential tenancy within the meaning of the Act;*
- II. *The contractual monthly rent is currently £560.00;*
- III. *The Respondent fell into rent arrears and the sum of £13,309,62 is now lawfully due as arrears of rent by the Respondent to the Applicant;*
- IV. *The Applicant has made efforts to negotiate a payment plan and has signposted the Respondent to sources of financial support;*
- V. *The Applicant competently served a notice to leave under ground 12A of Schedule 3 of the Act. Ground 12A was established at the date of service of the notice to leave and remains established as at today’s date;*
- VI. *The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003 and The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;*
- VII. *The Respondent has failed to engage with the Tribunal process;*

Reasons for Decision

[5] Having made the above findings in fact, the Tribunal considered that the ground set out in the notice to leave was established. The Tribunal also considered that it was reasonable to make an Eviction Order. The Tribunal therefore granted the Application and made an Eviction Order.

Right of Appeal

[6] 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.

Andrew McLaughlin

Legal Member/Chair:

Date: 3rd July 2024