



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/24/5692

Property : 112 Albion Street, Coatbridge ML5 3SD ("Property")

Parties:

David Clelland, 4 Croftbank Crescent, Uddingston G71 7JD ("Applicant")

Premier Properties, 7a Church Street, Uddingston G71 7PT ("Applicant's Representative")

Ross Davidson and Natalie Fleming, 112 Albion Street, Coatbridge ML5 3SD ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined to grant an order for possession of the Property.

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Tenancy Agreement which commenced on 26 June 2019 ("Tenancy Agreement"); Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 4 November 2024 ("Notice to Leave") with covering email dated 4 November 2024; statement of rent arrears; correspondence indicating compliance with the pre-action requirements; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering letter dated 10 December 2024. The Application was served on the Respondent by sheriff officer on 4 April 2025 .

Case Management Discussion (“CMD”)

A CMD took place before the Tribunal on 2 July 2025 by teleconference. Stephen Kiernan of the Applicant’s Representative was in attendance. The Respondent was not in attendance. Mr Kiernan told the Tribunal that contact with the Respondent had become difficult. He said that phone calls were not returned and emails were not answered. He stated that rent payments had often been late throughout the tenancy and that some recent payments had been received, the last being in February 2025, but that there had been no explanatory communications from the tenants around this. He said he had issued the template for a payment plan but received no reply. He said that no element of the rent was paid directly by benefits.

Mr Kiernan explained that Ross Davidson’s parents live in the house above the Property. He said that he attended the Property for an arranged inspection in December 2024 but could not gain access. At that time he spoke with Ross Davidson’s mother who gave assurances that matters would improve. He said he thought that Natalie Fleming’s father may have passed away around 6 months before that. He said that Ross Davidson was working but he did not know about Natalie Fleming. He said that there are two children living in the Property and he thought they may be primary school age. He said he was not aware of any illnesses or disabilities in the family. He said that the Applicant would probably relet the Property if possession was obtained.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement which commenced on 29 June 2019.
2. The Notice to Leave was served by email on 4 November 2024.
3. At the date of service of the Notice to Leave and the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51 of the Act, the First-tier Tribunal may 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. In the Notice to Leave the Applicant stated that they sought recovery of

possession of the Property on the basis set out in ground 12 which is that the tenant has been in rent arrears for three or more consecutive months. The Tribunal considered the statement of rent arrears provided and determined that ground 12 had been established. The Tribunal had seen evidence of compliance with the pre-action requirements.

Having considered all of the circumstances, and in the absence of a submission on behalf of the Respondent, the Tribunal determined that it was reasonable to issue an eviction order.

Decision

The Tribunal grants an order for possession of 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.

Joan Devine
Legal Member

Date : 2 July 2025

Joan Devine