

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/19/0782

Re: Property at 44 Maberly Street, Aberdeen, AB25 1NB (“the Property”)

Parties:

KA and JD Macpherson, 13 Ardbeck Place, Peterculter, AB14 0ST (“the Applicant”)

Miss Nicole Shaw, formerly residing at 44 Maberly Street, Aberdeen, AB25 1NB and whose current whereabouts are unknown (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under grounds 10 and 12 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

- Background
- 1. An application dated 11 March 2019 was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought a repossession order against the Respondent on the basis of the tenant no longer occupying the property let under a private residential tenancy being Ground 10, and further that rent arrears had been accrued by the Respondent under a private residential tenancy, being Ground 12, both grounds under Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”).

- Case Management Discussion

2. A Case Management Discussion ("CMD") took place on 6 August 2019. The Applicant was personally present. There was no appearance by or on behalf of the Respondent. The application had been intimated on the Respondent by way of Advertisement between 19 June 2019 and 6 August 2019. Accordingly, the Tribunal was satisfied that the CMD could proceed in the Respondent's absence.
3. The Applicant moved for the Order to be granted as sought. The parties had entered into a Private Residential Tenancy Agreement ("the Agreement"), which commenced September 2018. The Respondent had paid no rent whatsoever since she moved into the property. The monthly rent was £950. A Notice to Leave had been served on the Respondent on the basis of Grounds 10 and 12 of Schedule 3 to the 2016 Act, on 22 January 2019. The Respondent had contacted the Applicant by text message and advised that she had removed from the property but no keys had been returned. No forwarding address had been provided. The Applicant had attempted to trace the Respondent by way of Sheriff Officer trace but this had so far been unsuccessful. The Applicant wished to repossess the Property.

- Findings in Fact

4. The Tribunal made the following findings in fact:
 - (a) The parties entered into a Private Residential Tenancy Agreement ("the Agreement") which commenced in September 2018;
 - (b) In terms of the Agreement the Respondent was due to pay rent to the Applicant in the sum of £950 per calendar month;
 - (c) The Applicant has served a Notice to Leave on the Respondent on the basis of Grounds 10 and 12 of Schedule 3 to the 2016 Act, and which was served on 22 January 2019;
 - (d) The Respondent has been in continuous arrears of rent since September 2018;

- Reasons for Decision

5. The Tribunal was satisfied that the terms of Ground 10 and 12 of Schedule 3 to the 2016 Act had been met, namely that: the Respondent has confirmed that she is no longer occupying the property as her home; that she had been in continuous arrears of rent for at least three months up to and including the date of the CMD; and that the arrears of rent are an amount which is greater than the amount due to be paid as one month's rent. The Tribunal was satisfied that a Notice to Leave had been served on the Respondent and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act.

- Decision

6. The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under grounds 10 and 12 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

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.

F.Watson

Legal Member/Chair

6/8/19

Date