



**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/19/0981**

**Re: Property at Ardhuncart Lodge, Kildrummy, AB33 8PQ (“the Property”)**

**Parties:**

**Ardhuncart Trust Estate, C/O Strutt and Parker, 68 Station Road, Banchory, AB31 5YJ (“the Applicant”)**

**Mr Antonio Trombetta, Ardhuncart Lodge, Kildrummy, AB33 8PQ (“the Respondent”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member) and Elizabeth Williams (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for repossession of the Property against the Respondent.**

**Background**

- 1** By application dated 26 March 2019 the Applicant applied to the Tribunal for an order for repossession of the Property against the Respondent.
- 2** By Notice of Acceptance of Application dated 30<sup>th</sup> April 2019 the Legal Member with delegated powers of the Chamber President determined that there were no grounds to reject the application. A Case Management Discussion was therefore assigned for 19<sup>th</sup> June 2019.

## **The Case Management Discussion**

- 3** The Case Management Discussion took place on 19 June 2019. The Applicant was represented by Ms Leanne Imlach of Strutt and Parker. The Respondent was personally present.
- 4** Both the Applicant and the Respondent confirmed at the Case Management Discussion that a payment had been made towards the rent arrears on 16<sup>th</sup> April 2019. The Respondent advised that a further payment would be made prior to 2 July 2019 in the sum of £5200 to clear the balance of arrears, together with an advance payment towards the next months rent. The Respondent advised that due to a client not complying with money laundering regulations his bank account had been frozen and he had been unable to pay the rent as a result. However this had now been sorted and he would be in funds by 30<sup>th</sup> June.
- 5** The Legal Member therefore fixed a hearing in the matter.
- 6** Following the Case Management Discussion, Ms Imlach contacted the Tribunal by email dated 16<sup>th</sup> July 2019 to advise that no payment had been received from the Respondent. The Applicant was therefore seeking to increase the arrears sought to the sum of £6950. There were no further representations from the Respondent.

## **The Hearing**

- 7** The Hearing took place on 1<sup>st</sup> August 2019 at the Credo Centre, Aberdeen. The Applicant was again represented by Ms Imlach. The Respondent was not present. The Tribunal was satisfied that the Respondent had received proper notification of the Hearing, having been present at the Case Management Discussion on 19<sup>th</sup> June. The Tribunal was therefore satisfied that it could proceed in the absence of the Respondent.
- 8** Ms Imlach advised that no payment had been made towards the arrears since 16<sup>th</sup> April 2019. There had been no contact from the Applicant, however she understood that he was still residing at the property. Ms Imlach submitted an updated rent account which showed a balance of rent arrears in the sum of £6950. The Tribunal therefore agreed in terms of Rule 14A of the Procedural Rules to amend the application to reflect the updated balance. Ms Imlach confirmed that the Applicant was seeking an order for possession, the provisions of ground 12 having been met.

## **Findings in Fact and Law**

- 9** The Applicant and Respondent entered into a Private Residential Tenancy Agreement dated 14 March 2018.

- 10 In terms of Clause 8 of the said Tenancy Agreement the Respondent agreed to pay rent of £1700 per month.
- 11 On or around 14 May 2019 the Applicant and Respondent agreed a rent increase of £50 per month. The rent from 14 May 2019 was therefore agreed at £1750 per month.
- 12 The Respondent has failed to make payment of rent lawfully due under the terms of the said Tenancy Agreement. The outstanding sum as at 1<sup>st</sup> August 2019 is £6950.
- 13 The Respondent has been served with a valid Notice to Leave under section 62 of the Private Housing (Tenancies) (Scotland) Act 2016.
- 14 The Respondent is in arrears of at least one months rent as at the date the Tribunal considered the application for the eviction order.
- 15 The Respondent has been in arrears for a continuous period of three or more consecutive months as at the date the Tribunal considered the application for the eviction order.
- 16 The arrears of rent are not wholly or partially a result of any failure or delay in payment of a relevant benefit.

### **Reasons for Decision**

- 16 The Tribunal was satisfied having regard to the application paperwork and the verbal submissions at both the Case Management Discussion and the Hearing that it was able to make a fair determination of the application.
- 17 The Tribunal noted the submissions from the Respondent at the Case Management Discussion. He had not sought to dispute that the arrears were due nor had he raised any issues with payment of a relevant benefit. He had offered to make payment within a fixed timescale however the payment had not been forthcoming. He had then failed to take the opportunity to attend the hearing.
- 18 The Tribunal therefore accepted that the Respondent was in arrears of at least one months rent as at the date of the hearing and had been in arrears for at least three or more consecutive months. The submissions from the Applicant's representative at the Hearing were entirely credible in this regard. Having made those findings in fact the Tribunal was obliged to grant the order for repossession.
- 19 The Tribunal therefore made an order for repossession against the Respondent.

## 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.

Ruth O'Hare  
Legal Member/Chair

1/8/19  
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Date