

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(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/19/1116

Re: Property at 33 Dornoch Crescent, Kirkcaldy, Fife, KY2 6YE (“the Property”)

Parties:

Mrs Naila Latif, 28 Church Road, Yardley, Birmingham, B25 8XE (“the Applicant”)

Miss Jacqueline Greig Craigie, 33 Dornoch Crescent, Kirkcaldy, Fife, KY2 6YE (“the Respondent”)

Tribunal Members:

Maurice O’Carroll (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Eviction should be granted

Background

1. A Case Management (“CMD”) was held at 2pm on 28 June 2019 at the Vine Conference Centre, 131 Garvock Hill, Dunfermline. Mr Adnan Ulhaq appeared on behalf of the Applicant. There was no appearance by the Respondent.
2. On the morning of the CMD, the Respondent contacted the office of the Tribunal to indicate that she would be unable to attend the CMD due to a car accident, which had occurred some days prior. She was, however, content for the CMD to proceed in her absence. In the circumstances, the CMD was held in the absence of the Respondent.

Findings in Fact

3. The parties entered into a Private Residential Tenancy on 10 July 2018, which commenced on that date. The rent payable was £650 per calendar month.

4. The application is dated 7 April 2019. By the time that the application was made, the Respondent had not paid rent for a continuous period of four months.
5. On 26 February 2019, the Respondent was served with a Notice to Leave, which sought vacant possession by 27 March 2019. The Respondent, however, refused to vacate by that date and remained in the Property as at the date of the CMD.
6. The Applicant relies upon paragraphs 12(1) and (2) of the Schedule 3 of the 2016 Act, in that rent has not been paid as required by the Rental Agreement for a continuous period of at least three months. She therefore seeks recovery of possession. Section 54(3)(b) of the 2016 Act applies.
7. The Respondent had previously indicated that she would leave the Property in March. In her message to the Tribunal on the morning of the CMD, she had indicated that she would leave by July. The Applicant was unwilling to accept that undertaking and therefore insisted on the application for Eviction.

Decision

8. In light of the above findings in fact, the Tribunal is satisfied that:
 - The Notice to Leave was validly served on the Respondent
 - The requisite period of notice was given
 - The circumstances required in order to substantiate the grounds in terms of section 54(3)(b) and Schedule 3, paragraphs (1) and (2) of the 2016 Act have been established.
9. It therefore grants the Order sought in terms of the application.

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.

Maurice O'Carroll

Legal Member/Chair

28 June 2019

Date