



**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/19/1345

Re: Property at 2 Kelvin Drive, Airdrie, ML6 6HT (“the Property”)

Parties:

Ms Marjory Ofoegbu, 43 Greenoakhill Gate, Uddingston, G71 7PR (“the Applicant”)

Ms Sara-Jane Murchie, 2 Kelvin Drive, Airdrie, ML6 6HT (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Mary Lyden (Ordinary 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 ground 12 under schedule 3 to the said 2016 Act.

An application was submitted by the Applicant under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) dated 30 April 2019. The Application sought an order for repossession against the Respondent in respect of rent arrears accrued under a Private Residential Tenancy Agreement (“PRT”), and in terms of ground 12 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”).

A Hearing took place on 1 July 2019. The Applicant was represented by Ms Caldwell of TC Young solicitors. There was no appearance by or on behalf of the Respondent. The Tribunal was satisfied that the application had been intimated on the Respondent by way of Sheriff Officers on 29 May 2019. The Tribunal was satisfied that the Hearing could accordingly proceed in the Respondent’s absence.

A separate application had also been made by the Applicant under Rule 111 of the Rules in respect of a payment order against the Respondent relating to the rent arrears accrued under the PRT. Said application was also heard on the same date.

An updated rent statement was produced at the Hearing showing that no further payments had been made since the application was submitted and the rent arrears stood at £2,000.

The Applicant's representative confirmed that there had been sporadic email contact by the Respondent throughout the period of the tenancy, and promises had been made by the Respondent to make payments towards the arrears and enter into formal payment plans. However, none of these promises had been fulfilled. The Applicant was not aware that there was any outstanding issue regarding Housing Benefit entitlement or otherwise.

The Tribunal made the following findings in fact:

1. The parties entered into a Private Residential Tenancy Agreement ("PRT") which commenced 3 May 2018;
2. In terms of Clause 8 of the said PRT the Respondent was obliged to pay a monthly rent of £495 to the Applicant;
3. The Respondent had failed to adhere to her rental payment obligations and the sum of £2,000 was outstanding at the date of the Hearing;
4. The Respondent had been in arrears of rent since 2 September 2018.

Decision

The Tribunal was satisfied that the terms of Ground 12 under Schedule 3 to the 2016 Act had been met. The Tribunal was satisfied that the Respondent had been in arrears of rent for a continuous period of at least 3 months up to the date of the Hearing, and further that the level of arrears due by the Respondent to the Applicant was greater than the equivalent of one month's rent.

Accordingly, 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, and under ground 12 of schedule 3 to the said 2016 Act.

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.

Fiona Watson

Legal Member/Chair

1/7/19

Date