



**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/19/1698

Re: Property at 11/7 Birchwood View, Edinburgh, EH12 8QB (“the Property”)

Parties:

Lowther Homes Limited, 25 Cochrane Street, Glasgow, G1 1HL (“the Applicant”)

Miss Louisa Smith, 11/7 Birchwood View, Edinburgh, EH12 8QB (“the Respondent”)

Tribunal Members:

Colin Dunipace (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order should be made in terms of Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Background

- **This matter called as a Case Management Discussion in George House, 126 George Street, Edinburgh, EH2 4HH on 2 August 2019. At the Discussion the Applicant was represented by Ms Rashid. The Respondent was neither present nor represented at this Discussion. Having examined the question of service I was satisfied that the date had been intimated to the Respondent, and determined therefore to proceed in the absence of the Respondent.**
- **This Case Management Discussion related to an Application on the part of the Applicant for eviction in terms of section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016. The Application related to a Private Residential Tenancy entered into between the parties on 17 May 2018 in relation to the property at 11/7 Birchwood View, Edinburgh, EH12 8QB. In support of the application were lodged a copy of the**

Tenancy Agreement, and details of the rental payments which had been made. Prior to the Case Management Discussion the Applicant moved to amend the amount sought to £4,525.93, and an updated Rent Account was submitted in support thereof. At the Case Management Discussion the Applicant's representative indicated that the current position in relation to rent was that the sum of £4,525.93 remained outstanding, and that an Order was sought in that amount.

- At the Case Management Discussion, Ms Rashid indicated that the Respondent was in breach of Ground 12 of Schedule 3 of the aforementioned Act in respect that the rent account had been in arrears continuously over at least 3 consecutive months, and that the arrears were now in the sum of £4,525.93. The Notice to Leave had been served by Sheriff Officers on 6 November 2018 in terms of section 52(3) of the aforementioned Act. A copy Notice to the Local Authority had also been sent in terms of section 56(1) of the aforementioned Act.
- Having considered the representations made on behalf of the Applicant, I determined that the Respondent was in breach of the rental agreement as signed, and that the Applicant was entitled to the Order as sought.

Findings in Fact

- The parties had entered into a Private Residential Tenancy Agreement in respect of the property at 1217 Birchwood View, Edinburgh, EH12 8QB on 17 May 2018. In terms of this tenancy the Respondent was due to make payment of rent in the sum of £640 per calendar month.
- As at the date of the Case Management Discussion the amount due in respect of the arrears was in excess of three months rental and was in the sum of £4,525.93.

Decision

- Having regard to the foregoing factual position I decided to grant the Order against the Respondent as sought.

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.

Colin Dunipace

2 August 2019

Legal Member/Chair

Date

*Insert or Delete as required