

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/19/1885

Re: Property at 5A Woodbank Crescent, Johnstone, PA5 8ER (“the Property”)

Parties:

Mr Robbie Robertson, Monkreddan Farm, Kilwinning, KA13 7QL (“the Applicant”)

Mr Marc Reid, Mrs Marrieanne Reid, 5A Woodbank Crescent, Johnstone, PA5 8ER; 5A Woodbank Crescent, Johnstone, PA5 8ER (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a hearing and issued an Eviction Order against the Respondent.

Background

By application, received by the Tribunal on 18 June 2019, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Eviction Ground relied on was Ground 12 of Schedule 3 to the 2016 Act.

The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 14 December 2018 at a rent of £475 per month, a Notice to Leave, dated 3 May 2019 with proof of service of that Notice by sheriff officer on 4 May 2019, and a Rent Statement showing arrears as at 4 June 2019 of £1,818.84. The Notice to Leave advised the Respondent that no application would be made to the Tribunal before 3 June 2019.

On 9 July 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 29 July 2019. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held at Glasgow Tribunals Centre, 20 York Street, Glasgow, on the afternoon of 13 August 2019. The Applicant was represented by of TC Young, solicitors, Glasgow. The Respondents, Mr and Mrs Reid, were both present. The Applicant's representative provided the Tribunal with an updated Rent Statement, which confirmed that the rent was in arrears by more than one month and the Respondent had been in arrears of rent for three or more consecutive months.

The Respondent, Mr Reid, told the Tribunal that, as a result of a serious health issue, he had been unable to work for many months and Mrs Reid said that she had been working in an office, but the office had closed down, so she was currently unemployed. They were now in receipt of benefits, the housing element of which was £406.16 every four weeks. This was being paid directly to the Applicant's agents, Rent on Time. In addition they had, since 15 May 2019, been paying a further £50 per week to the agents.

The Applicant's representative told the Tribunal that her instructions were to ask the Tribunal to issue the Eviction Order without a hearing, as the requirements of Ground 12 of Schedule 3 to the 2016 Act had been met.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it would determine the application without a hearing.

Section 51 of the 2106 Act states that the Tribunal is to issue an Eviction Order against the tenant in a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in Schedule 3 to the 2016 Act applies. Ground 12 of Schedule 3 to the 2016 Act states that it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months and that the Tribunal must find that Ground 12 applies if, at the beginning of the day on which the Tribunal first considers the application for an Eviction Order on its merits, the tenant is in arrears of rent by at least one month and has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months and the Tribunal is satisfied that the tenant's being in arrears over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. The Tribunal noted that the housing element of the Respondents' benefits was being paid directly to the Applicant's letting agents, but there was no evidence to suggest that the arrears had been wholly or partly attributable to a delay or failure in the payment of a benefit to which the Respondents were entitled.

The Tribunal was satisfied from the Rent Statement provided and the evidence led by the Applicant's representative, that the requirements of Ground 12 had been met and that the Tribunal was bound to issue an Eviction order against the Respondent. The Tribunal noted the efforts, since mid-May, being made by the Respondent to reduce the arrears and that the housing element of Mr and Mrs Reid's benefits were being paid directly to the Applicant's letting agents, but told the Respondent that the

Tribunal had no option but to make the Order as it was a mandatory ground for an Eviction Order.

Decision

The Tribunal determined that the application should be decided without a hearing and issued an Eviction Order 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.

George Clark

Legal Member/Chair

13 August 2019

Date