

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/19/3379

Re: Property at 28 Kingsway Terrace, Dundee, DD3 8JU (“the Property”)

Parties:

Mr Martin Forbes, 9 Kinmonth Road, Drumlithie, Stonehaven, Aberdeenshire, AB39 3YS (“the Applicant”)

Mr John Gamble, Mrs Helen Gamble, 28 Kingsway Terrace, Dundee, DD3 8JU (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

1. An application was received by the Housing and Property Chamber on 7th October 2019. It was dated 5th October 2019. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to ground 12 of the Private Housing (Tenancies) Act 2016 in that the Respondent has been in rent arrears for 3 or more consecutive months.
2. The application included:-
 - a. Copy Scottish Government Model Private Residential Tenancy Agreement with commencement of tenancy being 8th November 2018;
 - b. Notice to Leave signed 30th August 2019 stating an application would not be submitted to the Tribunal before 4th October 2019;
 - c. Section 11 notice noting proceedings;

- d. Rent statement from 5th November 2018 to 16th September 2019. This detailed the rent of £650 per month and arrears of £1713.44; and
 - e. Copy email dated 30th August 2019 serving Notice to Leave upon the Respondent.
3. The Tribunal also had before it a copy of the title deeds numbered ANG24559.
4. On 13th November 2019, all parties were written to with the date for the Case Management Discussion (“CMD”) of 13th December 2019 at 10am at Caledonia House, Greenmarket, Dundee. The letter also requested all written representations be submitted by 4th December 2019.
5. On 14th November 2019, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondents by leaving with their son at the Property. This was evidenced by Certificate of Citation dated 14th November 2019.

The Case Management Discussion

6. A CMD was held on 13th December 2019 at 11.30am at Caledonia House, Greenmarket, Dundee. The Applicant was represented by Mr Trevor White from Rent Locally. Ms Adrienne Brand, Mr White’s assistant was also present. The Respondents were present and represented by their daughter Ms Myfanwy Gamble. The Respondents submitted representations prior to the CMD. Mr White informed the Tribunal that the Respondents last paid a £512.76 payment on 9th December 2019. Mr White said that the arrears had increased £2125.16 as of 9th December 2019. Ms Gamble had been concerned that the arrears were actually at the level stated. Her father had been made bankrupt and she was under the impression that this would reduce the arrears by half. The Tribunal informed her that the arrears were jointly and severally liable. Regardless of that half of the arrears would exceed one months rent and the arrears at this level had been for 3 or more consecutive months. Other than this point Ms Gamble was not opposing the Order. She noted that there were no outstanding Housing Benefit issues.

Findings and reason for decision

7. A Private Rented Tenancy Agreement commenced 5th November 2018.
8. The Respondent persistently failed to pay her rent charge of £650 per month. The rent payments are due to be paid on 8th day of each month.
9. Arrears accrued to more than one months rent payment at the date of application and was in arrears for more than three months consecutive rent payments at the date of the hearing.

10. There are no outstanding Housing Benefit issues.

11. The arrears totalled £2125.16.

Decision

The Tribunal found that ground 12 has been established that the Respondent had been in arrears for an amount greater than 1 months rent for a period of 3 consecutive months. The Tribunal granted an order in favour of the Applicant.

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.

Gabrielle Miller

Legal Member/Chair

13 DEC 19

Date