



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 (the 2016 Act) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) regulations 2017.

Chamber Ref: FTS/HPC/EV/19/3791

Re: Property at 0/2, 188 Gallowhill Road, Paisley, Renfrewshire, PA3 4UF (“the Property”)

Parties:

Mrs Sharon Hamilton, 166 Greenock Road, Paisley, Renfrewshire, PA3 2LQ (“the Applicant”)

Mr Robert McKelvie, 0/2, 188 Gallowhill Road, Paisley, Renfrewshire, PA3 4UF (“the Respondent”)

Tribunal Member:

Martin McAllister (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

An eviction order is issued in respect of the Property.

Background

This is an application by the Applicant for an eviction order in terms of Section 51(1) of the 2016 Act. It is dated 25th November 2019 and was remitted for determination on 12th December 2019.

The Case Management Discussion

(1) A case management discussion was held at Glasgow Tribunal Centre on 28th January 2020. The tribunal had sight of the Sheriff Officer’s

certificate of service on the Respondent. Intimation of the case management discussion had been made on 27th December 2019.

- (2) In the late afternoon of 27th January 2020 the Respondent had emailed the tribunal office seeking an adjournment because he had child care issues and stating that he had forgotten about the case management discussion. The request had been refused and the Respondent had been offered the ability to participate by conference call. He had responded to this email asking details of how this would work.
- (3) The Applicant was present. The apparatus for the conference call was activated but the Respondent did not call in.
- (4) The purpose of a case management discussion was explained to the Respondent. After hearing the Respondent on the current position and the level of arrears, the tribunal determined that a Hearing did not require to be fixed.

(5) The Law:

Section 51(1) of the 2016 Act

The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the Landlord, it finds that one of the eviction grounds named in schedule 3 applies.

Schedule 3, Part 12 of the 2016 Act

- (1) *It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.*
- (2) *The First-tier Tribunal must find that the ground named by subparagraph (1) applies if-*
 - (a) *at the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, the tenant-*
 - (i) *is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and*
 - (ii) *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*
 - (b) *the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.*

(6) Findings in Fact:

- (a) The Applicant and the Respondent are parties to a private residential tenancy which commenced on 1st August 2018.

- (b) A Notice to Leave in prescribed form was served on the Respondent on 9th October 2019.
- (c) In terms of the tenancy agreement, the rent payable is £450 per month.
- (d) The Respondent is in arrears of rent amounting to £3,000.
- (e) An appropriate notice under Section 11 of the Homelessness Etc. (Scotland) Act 2003 had been served on Renfrewshire Council.

(7) Reasons

The Tribunal had before it:

7.1 The application and a copy bank statement showing that no payment of rent had been made between 29th June 2019 and 25th November 2019. The statement showed a payment of £500 having been made by the Respondent on 28th June 2019.

7.2 Copy of Notice to Leave dated 9th October 2019 together with proof of posting.

7.3 Copy of Notice under Section 11 of the Homelessness etc. (Scotland) Act together with proof of delivery.

7.4 The Applicant said that the last payment made by the Respondent had been on 28th June 2019 and that had been for £500. She said that, at that date, the Respondent had arrears of £300. The Applicant said that no rent had been paid for the months of August 2019 to January 2020 inclusive and that there was therefore currently rent arrears of £3,000.

7.5 The Applicant said that the Respondent had given no explanation for non-payment of rent and had never indicated that this was as a result of issues with payment of any benefit.

(8) Decision

The tribunal accepted that the Respondent was in arrears of £3,000 and that this was evidenced by the documentation before it and the evidence of the Applicant which was credible.

The tribunal applied the facts it had found to the provisions of Schedule 3, Part 12 of the 2016 Act and granted an order for eviction.

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.



Martin J. McAllister
Legal Member

28th January 2020