

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/20/1108

Re: Property at The Lodge, Kenlygreen, Boarhills, St Andrews, KY16 8PT (“the Property”)

Parties:

Mr John Shanks Kilgour and Mrs Victoria Ann Kilgour, both residing at Kenlygreen House, Boarhills, St Andrews, KY16 8PT (“the Applicants”),

Thorntons Law LLP, Whitehall House, 33 Yeoman Shore, Dundee DD1 4BJ (“the Applicants’ Representative”) and

Mr David Melville, The Lodge, Kenlygreen, Boarhills, St Andrews, KY16 8PT (“the Respondent”)

Tribunal Member:

G McWilliams- Legal Member

Decision in absence of the Respondent

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

Background

1. This Application, contained in papers lodged with the Tribunal between 22nd April 2020 and 9th July 2020, was brought in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).

2. The Applicants' Representative had provided the Tribunal, in the Application, with copies of the parties' Private Residential Tenancy Agreement ("the PRT"), the Notice to Leave served on the Respondent and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice intimated to Dundee City Council. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied. The Representative also submitted a Rent Payments Statement.
3. The Respondent had been validly served by Sheriff Officers with the Notification, Application papers and Guidance Notes from the Tribunal on 11th September 2020, and the Certificate of Intimation was produced.

Case Management Discussion

4. A Case Management Discussion ("CMD") proceeded remotely by telephone conference call at 10am on 8th October 2020. The Applicants' Representative's Mr M Kemp attended. The Respondent did not attend and was not represented. Mr Kemp stated that the Respondent had been in arrears of rent for three or more consecutive months at the time of lodging of the Application, and at the present date, and that the Respondent had not paid any rent for a period of 11 consecutive months. Mr Kemp stated that the outstanding rent was now in the sum of £6500.00. He submitted that as the Respondent had been effectively served with all papers in respect of the Application for an eviction order, and had not lodged any representations with the Tribunal, nor attended at the CMD, the eviction order should be granted.

Statement of Reasons

5. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") the Tribunal is to issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
6. Schedule 3 (12) (1) of the 2016 Act provides that it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.
7. The Respondent had not lodged representations with the Tribunal or attended the CMD to provide any evidence, and/or make any submission, opposing the order sought. Having considered the Application, the PRT and the Rent Statement, as well as the submission of the Representative's Mr Kemp, the Tribunal was satisfied that the Respondent had been in rent arrears for three or more consecutive months at the date of the Application, and at the present date. In all the circumstances the Tribunal determined that it was reasonable that an eviction order be granted.

Decision

8. The Tribunal therefore made an eviction order as sought in this Application.

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.

G McWilliams

8th October 2020

Legal Member

Date