

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/19/2267

Re: Property at 135 Slaemuir Avenue, Port Glasgow, PA14 6NQ (“the Property”)

Parties:

Mr Garry Fulton, 4/1, 5 Jackson Place, Glasgow, PA61 1RY (“the Applicant”)

Ms Rosemary Sweeney, 135 Slaemuir Avenue, Port Glasgow, PA14 6NQ (“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 determined without a hearing and issued an Eviction Order against the Respondent.

Background

By application, received by the Tribunal on 22 July 2019, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”). The Ground relied on was Ground 12 of Schedule 3 to the Act.

The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 7 June 2018 at a rent of £560 per month, A Notice to Leave, dated and served on 24 May 2019, stating that an application to the Tribunal for an Eviction Order would not be made before 24 June 2019 and a Rent Statement showing arrears as at 7 May 2019 of £1,853.06.

On 15 August 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 6 September 2019. The Respondent did not make any written

representations to the Tribunal. On 26 July 2019, the Applicant provided an updated Rent Statement showing arrears as at that date of £2,973.06.

Case Management Discussion

A Case Management Discussion was held at Glasgow Tribunals Centre, 20 York Street, Glasgow on the morning of 23 September 2019. The Applicant was represented by Mrs Alison Hatrick of Inverclyde Letting Agency. The Respondent was not present or represented. The Applicant's representative asked the Tribunal to issue an Eviction Order without a Hearing, as no rent had been paid since the date of the application.

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 Act provides that the 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 to the Act applies.

Ground 12 of Schedule 3 to the Act states that it is an Eviction Ground that the tenant has been in 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 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 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 payment of a relevant benefit.

The Tribunal was satisfied from the evidence before it that the rent was more than one month in arrears, that the rent had been in arrears for more than three months up to and including the day of the Case Management Discussion and that there was no evidence before it to suggest that the arrears were attributable to a failure or delay in payment of a relevant benefit. Accordingly, the requirements of Ground 12 of Schedule 3 to the Act had been met and the Tribunal was bound to issue an Eviction Order against the Respondent.

Decision

The Tribunal determined that the application should be determined 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.

G.Clark

Legal Member/Chair

Date

23 September 2019