

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) Act 2016

Chamber Ref: FTS/HPC/EV/19/0963

Re: Property at 233 Talla Road, Hillington, Glasgow, G52 2AX (“the Property”)

Parties:

Mr Stuart Williams, 1 Hillend Road, Clarkston, Glasgow, G76 7TH (“the Applicant”)

Mr Kevin Logan, 233 Talla Road, Hillington, Glasgow, G52 2AX (“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, granted the application and made an Eviction Order against the Respondent.

Background

By application, received by the Tribunal on 27 March 2019, the Applicant sought an Eviction Order against the Respondent. The Ground under which the Order was sought was Ground 12 of Schedule 3 to the Private Housing (Tenancies) Scotland Act 2016 (“the 2016 Act”).

The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties, commencing on 8 June 2018 at a monthly rent of £625, a copy Notice to Leave dated 20 February 2019, advising the Respondent that an application for an Eviction Order would not be submitted to the Tribunal before 23 March 2019 and a Rent Statement, showing arrears as at 8 March 2019 of £2,825, with no rent having been paid since 12 November 2018.

By letter dated 24 April 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was advised to make any written representations by 13 May 2019. The Respondent made no written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held at Glasgow Tribunals Centre, 20 York Street, Glasgow, on the morning of 31 May 2019. The Applicant was represented by Miss Nicola Caldwell of TC Young, solicitors, Glasgow. The respondent was not present or represented. Miss Caldwell asked the Tribunal to grant the application without a hearing and provided to the Tribunal an updated Rent Statement, showing arrears as at 30 May 2019 of £3,575. £500 had been paid to reduce the arrears on 25 March 2019, but the Rent Statement showed that the rent was more than one month in arrears and that there had been arrears of rent since 12 November 2018.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states 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.

Ground 12 of Schedule 3 to the 2016 Act provides 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 the Ground 12 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 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 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 (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.

The Tribunal was satisfied that the Respondent had been in rent arrears for three or more consecutive months, that the arrears as at the date of the Case Management Discussion exceeded one month's rent and that the Respondent had not made any written representations that the arrears were wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. Accordingly, the Tribunal determined that Ground 12 applied and that it was bound to make an Eviction Order against the Respondent.

Decision

The Tribunal determined that the application should be determined without a hearing, granted the application and made 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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.


Legal Member/Chair

31 May 2019
Date