



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 51(1) of the of the Private
Housing (Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/EV/19/2919

Re: Property at 39 Maree Place, Castlepark, Irvine, KA12 9PQ (“the Property”)

Parties:

**Mr Gary Hand and Mrs Jennifer Hand, 136 Laurel Street, Cambridge, Canada,
N3H 3Y4 (“the Applicant”) per their agents Secure Letting Ayrshire, Caledonia
House, 100, High Street, Irvine KA12 0AX (“the Applicants’ Agents”)**

**Mr Shaun Mace and Ms Danielle Rankin, 39 Maree Place, Castlepark, Irvine,
KA12 9PQ (“the Respondent”) per their agents CHAPs, Ardrossan (“the
Respondents’ Agents”)**

Tribunal Members:

Karen Moore (Legal Member)

1. By application received 16 September 2019 (“the Application”) the Applicant’s Agents made an application to the Tribunal for a possession order in terms of Section 51 of the Act and in terms of Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).
2. The Application comprised copy of a private residential tenancy agreement between the Parties, copy Notice to Leave in the correct legal format and copy Notice in terms of Section 56(1) of the Act to North Ayrshire Council being the relevant local authority, all with evidence of intimation.
3. On 15 October 2019, a legal member of the Tribunal with delegated powers of the Chamber President accepted the Application and a Case Management Discussion (“CMD”) was fixed for 29 November 2019 at 11.30 at Russell House, King Street, Ayr, KA8 0BQ. The CMD was intimated by both Parties.
4. Written submissions were lodged late by both Parties.

Case Management Discussion

5. The CMD took place on 29 November 2019 at 11.30 at the said Russell House. The Applicants were not present and were represented by Mrs Allen and Ms. Harper of the Applicants' Agents. Both Respondents were present and represented by Ms. Gibson of the Respondents' Agents Both the Applicant and Respondent took part.
6. Mrs. Allen confirmed the Order sought.
7. Mr Mace of the Respondents explained to me that rent was being withheld in part because of repairs required to the Property, being a cracked ceiling, a faulty shower, a missing patio door key and broken decking in the garden. Mrs. Allen accepted that the ceiling required to be repaired but explained that the shower had been fixed and that the patio door could be locked from within. Ms. Gibson advised me that the amount withheld is the amount of rent due to be paid by the Respondents after payment of housing benefit as the latter did not meet the full rent due.
8. Mr. Mace agreed that the withheld rent was not being retained by him and Ms Rankin and he agreed fairly that there are arrears of rent as stated in the Application.
9. With regard to the Respondents' written submissions being copies of text messages, Ms. Gibson advised me that the purpose of these is to show that attempts had been made to reduce the rents arrears. Mrs. Allen advised me that no suitable arrangement could be reached to reduce the rents arrears to the satisfaction of the Applicants and confirmed the Order sought.
10. The Respondents advised me that contact has been made with the local authority to obtain alternative accommodation and that a possession Order would assist in this process. Mr. Mace fairly that he was not opposing the Order sought.

Findings in Fact

11. From the Application and the CMD, I found that a tenancy agreement existed between the Parties, that proper notice had been given by the Applicants to the Respondents, that grounds for possession had been established and that notice in terms of Section 56 of the Act had been properly intimated to the relevant local authority.

Decision and Reasons for Decision

12. Having found that the tenancy the correct procedure followed and there being no opposition by the Respondents in respect of Ground 12, I had regard to Rule 17(4) of the Rules which states that the Tribunal "may do anything at a case management discussion which it may do at a hearing, including make a decision" and, accordingly, I determined to grant an Order for possession without further procedure.

13. In the circumstances and to allow the Respondents sufficient time to obtain alternative accommodation, I suspended the effective date of the Order for 60 days from today's date.

14. Ground 12 being satisfied, there was no need to consider any other ground.

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.



Legal Member/Chair

29 November 2019

Date