



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

Chamber Ref: FTS/HPC/EV/19/3623

**Re: Property at 108/1 Barn Park Crescent, Edinburgh, EH14 3HP (“the
Property”)**

Parties:

**Mr Ian Morrison, 74/5 Harrison Gardens, Edinburgh, EH11 1SD (“the
Applicant”)**

**Mr Ali Nur, 108/1 Barn Park Crescent, Edinburgh, EH14 3HP (“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 granted without a Hearing
and issued an Eviction Order against the Respondent.**

Background

By an application, received by the Tribunal on 8 November 2019, the Applicant sought an Eviction Order against the Respondent. The Ground relied on was Ground 12 of Part 3 of Schedule 3 to the Private Housing (Tenancies) Scotland Act 2016 (“the 2016 Act”), namely that the Respondent has been in arrears of rent for three or more consecutive months.

The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties commencing on 7 January 2019, a Notice to Leave, dated 4 September 2019, advising the Respondent of the Ground on which the Applicant intended to apply for an Eviction Order and that an application to the Tribunal would not be made before 6 October 2019, evidence of delivery by Royal Mail on 5 September 2019 of the Notice to Leave and a Rental Statement showing arrears as at November 2019 of £4,050. The application stated that no rental payments had been made since 2 May 2019.

On 19 December 2019, the Tribunal advised the Parties of the date, time and place of a Case Management Discussion and the Respondent was invited to make written representations by 7 January 2020. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held at Riverside House, 502 Gorgie Road, Edinburgh on the afternoon of 20 January 2020. The Applicant was represented by Miss Hayley Swanson of Gillespie Macandrew LLP, solicitors, Edinburgh. The Respondent was not present or represented. Miss Swanson confirmed that no payments of rent had been received since the date of the application and asked the Tribunal to issue an Eviction Order without a Hearing. The arrears now stood at £5,400.

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 decide the application without a Hearing.

Section 51 of the 2016 Act states 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 Part 3 of Schedule 3 to the 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 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 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 arrears exceeded one month's rent and that the Respondent had been in arrears for more than the last three consecutive months. There was no evidence to suggest the arrears were in any way attributable to a failure or delay in payment of a relevant benefit. Accordingly, the Tribunal held that the requirements of Ground 12 had been met and that the Tribunal was bound to issue an Eviction Order against the Respondent.

Decision

The Tribunal determined that the application should be granted 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.

George Clark

Legal Member/Chair

20 January 2020

Date