

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) Act 2016

Chamber Ref: FTS/HPC/EV/19/0653

Re: Property at Ground Floor Flat, 40 Jamaica Street, Aberdeen, AB25 3UX (“the Property”)

Parties:

Tayhar Properties, Shanter, Hillside, Portlethan, Aberdeen, AB12 4RB (“the Applicant”)

Ms Beata Dzieniszewska, Ground Floor Flat, 40 Jamaica Street, Aberdeen, AB25 3UX (“the Respondent”)

Tribunal Members:

David Preston (Legal Member)

Decision

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

Background

1. By application dated 26 February 2019 the Applicant applied to the First-tier Tribunal under Rule 109 of the First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). In addition to the application the tribunal had sight of:
 - Copy Tenancy Agreement;
 - Copy Notice to Leave dated 18 December 2018;
 - Copy rent statement from 20 February 2018 to 20 February 2019 and;
 - Notice to Local Authority under section 11 of the Homeless etc (Scotland) Act 2004.
2. By Decision dated 14 March 2019 a Convener of HPC having delegated power for the purpose, referred the application under rule 9 of the Rules to the tribunal. A letter of Intimation with Notice of the Case Management Discussion to be held on 2 May 2019 at 10:00 in The Credo Centre, 14-20 John Street, Aberdeen AB25 1BT together with the application and case papers was served on the tenant by Sheriff Officers on 12 April 2018. The tribunal was provided with a copy of the Sheriff Officer’s Certificate of Intimation thereof.

3. The tribunal was satisfied that all relevant documents and intimation of today's hearing had been duly served on the respondent and that the requirements of Rule 24 had been complied with.

Case Management Discussion

4. Mr George Taylor appeared on behalf of the applicant. The respondent appeared accompanied by Matalia Panczyk, who acted as supporter and interpreter for the respondent.
5. The tribunal noted that as at the date of the application a sum in excess of three consecutive months rent had accrued.

Findings in Fact

6. The tenancy between the parties was constituted by Private Residential Tenancy with effect from 20 February 2018.
7. As at the date of the application and as at the date of the hearing, an amount of rent arrears in excess of three months had accrued and were outstanding.
8. The respondent had received all relevant paperwork which was in order.
9. The respondent said that she had been given a note of the outstanding rent and had made a payment of £94 within the past two weeks. She accepted that she had made no further payments of rent since the date of the application. She said that she had been in receipt of housing benefit until January 2019 when it had been stopped.

Reasons for Decision

10. 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 CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, to determine the application at the CMD.
11. As at the date of the application (20 February 2019), arrears of rent in excess of three months had accrued. The respondent accepted that since then she had paid a total of £94, leaving arrears in excess of a sum equivalent to one month's rent and has been in arrears of rent for a continuous period up to the date of the CMD of three or more consecutive months.
12. The tribunal was satisfied that the arrears of rent were not as a delay or consequence of a failure in the payment of a relevant benefit since the benefit had been stopped on the basis that the respondent was no longer eligible.

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.

Mr David Preston

Legal Member / Chair

21/2 2019.