

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(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (Act)

Chamber Ref: FTS/HPC/EV/20/0200

Re: Property at Whitfield Lodge, West Linton, EH46 7AX (“the Property”)

Parties:

Mrs Eleanor Weir, 6 West Lynn Grove, West Linton, EH46 7HS (“the Applicant”)

Mr Martin Morris, Whitfield Lodge, West Linton, EH46 7AX (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction and recovery of possession be granted.

Background

This is an application for recovery of possession and eviction under section 51(1) of the Act and Rule 109 of the Tribunal Procedure Rules. The Applicant asserts that possession should be recovered under Ground 12 of Schedule 3 to the Act.

The Tribunal had regard to the following documents:

1. Application received 21 January 2020;
2. Section 11 Notice;
3. Private Residential Tenancy Agreement (PRTA) commencing 12 June 2018;
4. Schedule of Rent Arrears as at 12 March 2020;
5. Updated Rent Arrears as at 13 March 2020;
6. Notice to Leave dated 17 December 2019;
7. Confirmation of receipt of Notice to Leave by Respondent by email dated 17 December 2019;

8. Sheriff Officer Certificate of Service of Tribunal CMD Notification dated 19 February 2020.

Case Management Discussion (CMD)

The Applicant did not appear but was represented by Ms Mallen. The Respondent did not appear and was not represented.

The Tribunal was satisfied that the Respondent had received notification of the CMD by virtue of the Sheriff Officer's Certificate of Service. The Respondent was accordingly aware that the Tribunal could proceed in his absence and could make a decision if satisfied that it had sufficient information to do so and the procedure was fair.

The Tribunal then heard from the Applicant's representative who invited the Tribunal to determine the matter on the papers.

The Tribunal considered the terms of section 51(1) of the Act and Ground 12 of Schedule 3 to the Act. The Tribunal had no discretion other than to grant an order for recovery of possession if there had been arrears over a continuous period of 3 months and current arrears were equal to or in excess of 1 month's rent. The Tribunal also had to be satisfied that the arrears of rent were not wholly or partly due to a delay or failure to make payment of a relevant benefit.

The current arrears were £7,260.00.

The Tribunal considered it had sufficient information upon which to make the following findings in fact:

1. The Parties entered in to the PRTA commencing 12 June 2018;
2. The Monthly rent was £1,260;
3. As at the date of service of the Notice to Leave the Respondent was in arrears in the sum of £3,480;
4. As at the date of the CMD the Respondent was in arrears in the sum of £7,260;
5. The arrears were not wholly or partly due to any failure to make payment of relevant benefit;
6. Section 11 Notice was given to the local authority;
7. The Notice to Leave had been validly served on 17 December 2019.

The Tribunal considered that it had sufficient information upon which to make a decision and that the procedure was fair. The Tribunal determined that the requirements of section 51(1) and Ground 12 of Schedule 3 to the Act were satisfied and that it was reasonable to grant the order sought.

The Tribunal accordingly granted the order for eviction and recovery of possession as sought.

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 Alan Strain

Legal Member/Chair

17 March 2020

Date