

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) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/22/1933

Re: Property at Auld Toon, Lour, Forfar, Angus, DD8 2NP (“the Property”)

Parties:

Fothringham Estate Company Limited, Fothringham Estate Office, Inverarity, Forfar, DD8 2JP (“the Applicant”) and

Lindsays LLP, Caledonian Exchange, 19A Canning Street, Edinburgh, EH3 8HE (“the Applicant’s Representative”) and

Mr Ryan Conroy, Auld Toon, Lour, Forfar, Angus, DD8 2NP (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

G. Laurie - Ordinary Member

Decision

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

Background

1. This Application, was brought in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).

2. The Applicant had provided the Tribunal, in the Application, with copies of the parties' Private Residential Tenancy Agreement ("the PRT"), the Notice to Leave served on the Respondent and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice intimated to Angus Council. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied.
3. The Application papers and Guidance Notes had been validly served upon the Respondent.

Case Management Discussions

4. A Case Management Discussion ("CMD") proceeded remotely by telephone conference call on 28th February 2023. Reference is made to the Notes on that CMD, also dated 28th February 2023. A further CMD proceeded remotely by telephone conference call at 10.00am on 31st March 2023. The Applicant's Representative's Mr A Gardiner and the Respondent Mr Conroy attended. Mr Gardiner sought the grant of an eviction order on the basis of outstanding rent arrears in the sum of £14,670.00. Mr Conroy stated that he had no objection to the grant of the eviction order, on the ground that there are three or more consecutive months' rent arrears. Mr Conroy forwarded an email to the Tribunal's office, during the CMD, from his recently appointed solicitor, Mr K Lancaster of Hodge Solicitors LLP, Coupar Angus, dated 29th March 2023. The email confirmed his solicitor's advice regarding his non-opposition to the grant of an eviction order and was copied to Mr Gardiner, also during the CMD. Mr Conroy said that Mr Lancaster was unable to attend the CMD due to illness. Mr Conroy said that he hoped that the grant of the eviction order would assist him in relation to his application to Angus Council for a tenancy. He stated that he wishes to oppose the Applicant's linked Application CV/22/1946 seeking an order for payment in respect of rent arrears for the reasons stated in the Notes on the CMD in relation to that Application.

Findings in Fact and Law and Reasons for Decision

5. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") the Tribunal is to issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
6. Schedule 3 (12) (1) of the 2016 Act provides that it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.
7. The Tribunal considered all of the Application papers, including the PRT, Notice to Leave and Rent Statements lodged on behalf of the Applicant, as well as the submissions of Mr Gardiner and Mr Conroy and the terms of the said email from the latter's solicitor.

8. The Respondent Mr Conroy did not oppose and, in fact, sought the grant of an eviction order. Having considered all of the evidence, representations and submissions, the Tribunal found in fact that the Respondent had been in rent arrears for three or more consecutive months at the date of the Application and at the present date. The Tribunal found in law that the ground in Schedule 3 (12) (1) of the 2016 Act was met and determined, in the circumstances of this Application, that it was reasonable that an eviction order be granted.

Decision

9. The Tribunal therefore made an Eviction Order as sought in this Application.

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

31st March 2023
Date