

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/23/0634

Re: Property at 39 Rannoch Place, Irvine, KA12 9NH (“the Property”)

Parties:

Easton Property Newfield Limited, 2 Newfield Drive, Kilmarnock, KA2 9EW (“the Applicant”) and

Easton Housing Limited, 2 Newfield Drive, Kilmarnock, KA2 9EW (“the Applicant’s Representative”) and

Ms Kimberley Findlay, 39 Rannoch Place, Irvine, KA12 9NH (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

E Dickson - Ordinary Member

Decision in absence of the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines 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 North Ayrshire 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 by Sheriff Officers on 3rd April 2023.
4. The Respondent had not lodged any representations in respect of the Application.

Case Management Discussion

5. A Case Management Discussion (“CMD”) proceeded by remote teleconference call on 9th May 2023. The Applicant’s Representative’s Ms A Barclay attended. The Respondent Ms Findlay did not attend and was not represented.
6. Ms Barclay confirmed that since lodging the Application the Applicant had received one further payment towards rent, of £458.49, from DWP on 31st March 2023 and also two payments towards rent arrears, also from DWP, of £33.49 on 2nd March 2023 and £23.86 on 2nd May 2023. Ms Barclay confirmed that the Applicant had not received any further payments towards rent since 31st March 2023 and that the current rent arrears amount owing is £7,117.06. Ms Barclay sent an updated Rent Statement to the Tribunal’s office by email shortly after the end of the CMD. The Statement confirmed the rent arrears amount due of £7117.06. Ms Barclay also stated that she understood that the Respondent lives alone at the Property but that she had no further information regarding the Respondent’s personal circumstances. She stated that she had not received any communication from the Respondent since serving the Notice to Leave and accompanying papers in October 2022. Ms Barclay said that she had received an Information for Tenancy Notice from North Ayrshire Council, in respect of the Respondent, on 3rd February 2023 and understood therefore that the Respondent had applied for another tenancy with her local authority. She submitted that as the Respondent had been served with all papers in respect of the Application and for an Eviction Order and had not had not attended the CMD and not made any representations regarding the reasonableness of the granting of an eviction order, such an order should be granted.

Findings in Fact and Law and Reasons for Decision

7. 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.
8. 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.

9. The Tribunal considered all of the Application papers, including the PRT, Notice to Leave and Rent Statements lodged by the Applicant, as well as the submission of the Applicant's Representative's Ms Barclay.
10. The Respondent had not lodged representations with the Tribunal regarding the reasonableness of the grant of an eviction order or attended the CMD to provide any evidence, and/or make any submission, to oppose, and contradict the basis for the order sought by the Applicant.
11. Having considered all of the evidence, representations and the submission of Ms Barclay, the Tribunal finds in fact that the Respondent had been in rent arrears for three or more consecutive months at the date of the Application, and is in arrears of £71107.06 at the present date. The Tribunal finds in law that the ground in Schedule 3 (12) (1) of the 2016 Act is met and determines that it is reasonable that an eviction order be granted.

Decision

12. The Tribunal therefore makes 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.



G McWilliams

Legal Member

9th May 2023

Date