

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 (“the Act”) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/22/0698

Re: Property at 4 Barony Grove, Cambuslang, Glasgow, South Lanarkshire, G72 7EU (“the Property”)

Parties:

Mr Subash Panchal and Ms Anita Panchal, 16 Ferriby Road, Cawston, Rugby, Warwickshire, CV22 7XH (“the Applicants”)

Mr John Tempany, 4 Barony Grove, Cambuslang, Glasgow, South Lanarkshire, G72 7EU (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Ground for eviction and recovery of possession having been established, it is reasonable to grant the Order sought and so the Tribunal granted the Order.

1. By application received between 8 March 2022 and 20 April 2022 (“the Application”), the Applicants applied to the Tribunal for an Order for possession of the Property based on Ground 12 of Schedule 3 to the Act, the tenant has more than three consecutive months arrears,. The Application comprised statement of rent of £5,050.00 due and owing to February 2022, copy Notices to Leave, and copy correspondence from the Applicants’ managing agents to the Respondent. The Application was accepted by the Tribunal and a Case Management Discussion (the “CMD”) was fixed for 14 July 2022 at 10.00 by telephone conference. The CMD was intimated to the Parties and, in particular, was served on the Respondent by Sheriff Officer on 1 June 2022.

CMD

2. The CMD took place on 14 July 2022 at 10.00 by telephone. Both Applicants took part and were not represented Applicant's Agents. The Respondent did not take part and was not represented. He did not submit any written representations.
3. The Applicants advised the Tribunal that no rent had been paid since February 2021 and that the rent due now amounted to £7,250.00. They advised the Tribunal that, as far as they are aware the Respondent remains residing at the Property and, that although their managing agents have made attempts to contact the Respondent by letter and telephone the rent remains unpaid. The Applicants advised the Tribunal that they had offered the Respondent the opportunity to make payment by instalments to no avail. They explained that the Respondent had indicated that he would make payment on receipt of a tax refund but that this had not come to fruition.
4. With regard to personal circumstances, the Applicants advised the Tribunal that as far as they are aware, the Respondent resides at the Property alone. They confirmed that a mortgage is secured against the Property.

Issue for the Tribunal

5. The statutory Grounds and the procedure being established, the issue for the Tribunal is to determine if it is reasonable to grant the Order. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "*may do anything at a case management discussionincluding making a decision*". The Tribunal took the view that it had sufficient information to make a decision on reasonableness and so proceeded to determine the Application.

Findings in Fact

6. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There is a tenancy of the Property between the Parties at a monthly rent of £550.00 ;
 - ii) Rent amounting to £7,250.00 is outstanding and due and owing by the Respondent to the Applicants and this amount continues to increase;
 - iii) The Applicant has a mortgage secured on the Property and requires the rental income to meet the costs of the Property;
 - iv) The Respondent resides in the Property alone;
 - v) The Respondent has made no attempt to contact the Applicants or their managing agents to resolve matters.

Decision and Reasons for Decision

7. The Tribunal had regard to all the information before it and to its Findings in Fact.
8. The Tribunal then considered if it could be satisfied it is reasonable to issue an eviction order on account of those facts and on all of the information before it. The Tribunal had regard to the high level of the rent arrears which continue to accrue and to the financial effect this has on the Applicants. The Tribunal was satisfied that it is reasonable to issue an eviction order.

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.

K Moore

Legal Member/Chair

14 July 2022

Date