

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.**

Chamber Ref: FTS/HPC/EV/21/0680

Re: Property at 20/1 Gladstone Street, Hawick, Roxburghshire, TD9 0HX (“the Property”)

Parties:

Tyne & Tweed Estates Ltd, 46 Grosvenor Drive, Whitley Bay, NE26 2JS (“the Applicant”)

Mr Graeme Cook, 20/1 Gladstone Street, Hawick, Roxburghshire, TD9 0HX (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondent.

Introduction

This Case Management Discussion concerned an Application for an Eviction Order in relation to a Private Residential Tenancy under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016. The hearing took place by teleconference due to the covid-19 pandemic.

1. Attendance and Representation

Paul McDermott attended for the Applicants.

The Respondent was not present and had been served by Sheriff Officer. The Tribunal did not commence until 10.10am to try to allow the Respondent to attend.

2. Preliminary Matters

The Tribunal raised with the Applicant that other than the lodging of an up to date Rent Statement the Applicant had not complied with a Direction issued by the Tribunal at the last Case Management Discussion hearing to lodge further information and particulars in regards the circumstances of the Respondent. The Tribunal referred to the reasons for the Direction and the fact that third parties such as the letting agency may have been aware of relevant information. The Applicant said he had remained unable to contact the Respondent and believed his phone number had changed. He did not see the relevance of the information sought by the Tribunal.

3. Case Management Discussion.

The Applicant confirmed the Respondent remained in receipt of £300 per month housing benefit with a small shortfall to be met. He confirmed he continued to receive this directly but that the arrears as per the rent statement now lodged were £3193.46. The Tribunal noted that the last payment made to the rent account by the Respondent other than the Housing Benefit payments referred to was in September 2020.

Since the Last CMD the Applicant was able to confirm some of the personal circumstances of the Respondent despite the non compliance with the Direction of the Tribunal. He said that the Respondent was single, in his 50's and lived alone. He was not clear if he has employment and was working or had any vulnerabilities.

The Applicant said he is unable to contact the Respondent as the mobile number he has does not work, he does not reply to letters and is not in contact. The Applicant said that his son received a text message from Borders police on 7th July 2021 looking for the Respondent and that he could not be found at the property. However the Respondent said he also received a message from a neighbour of the Respondent on 2nd August 2021 to say the Respondent had been seen letting people into the property. The Applicant sought an eviction order in terms of Ground 12, Schedule 3 of the 2016 Act. The Applicant relied on the respondent he said being in arrears of rent for over three consecutive months and the amount outstanding as of 23rd July 2021 of £3193.46.

4. Findings in Fact

1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent had received notification of the proceedings and had not challenged same by written representations or attendance. The earlier CMD had been continued which allowed the Respondent another opportunity to participate.
2. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property.

3. The Tribunal was satisfied that the tenancy was a Private Residential Tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016 and dated 21st August 2019.
4. The monthly rent due in terms of the said Tenancy is £350.
5. The Applicant was relying on Ground 12, rent arrears, under Schedule 3, of the 2016 Act only to make the Application.
6. A valid Notice to Leave had been served on the Respondent by Sheriff Officer.
7. In terms of same the Tribunal was satisfied that the respondent was in arrears of rent for over three consecutive months to the amount as at 23rd July 2021 of £3193.46.
8. The Tribunal was also satisfied that the arrears relied upon were not wholly or partly a consequence of a delay or failure in a relevant benefit.
9. Notice to the Local Authority had been given.
10. A full Rent Statement for the property had now been lodged.
11. The Tribunal was told the Respondent was single, in his 50's and lived alone.
12. the Tribunal was satisfied it was reasonable to grant the Order.
13. Accordingly in terms of Section 51 of the 2016 Act the Tribunal granted an Order against the Respondent for possession of the Property.

Reasons for the Decision

The Tribunal heard evidence from the Applicant which satisfied some of the purpose of the Directions previously issued to the Applicant and this allowed the Tribunal to determine the Application. The Tribunal noted the Respondent had now had two opportunities to appear and make representations given the Tribunal had earlier continued a previous CMD. On the basis of the up to date rent statement, the evidence heard in particular orally from the Applicant at the CMD and the evidence in the Application the Tribunal determined it was appropriate to grant an Order for Eviction.

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.

Karen Kirk

Legal Member/Chair

13 August 2021

Date