

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/21/1638

Re: Property at 20 Stroma Terrace, Aberdeen, AB16 6FF (“the Property”)

Parties:

**Ms Denise Fyvie, 12 Colonsay Crescent, Aberdeen, AB16 6FA (“the Applicant”),
and**

**Laurie & Co Solicitors LLP, 17 Victoria Street, Aberdeen, AB10 1PU (“the
Applicant’s Representative”) and**

**Mr Hafiz Haris Iftikhar, 20 Stroma Terrace, Aberdeen, AB16 6FF (“the
Respondent”)**

Tribunal Members:

**G McWilliams- Legal Member
A Lamont- Ordinary Member**

Decision

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

Background

1. This Application, contained in papers lodged with the Tribunal between 8th July 2021 and 29th July 2021, 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's Representative 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 Aberdeen City 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. The Representative also submitted their Terms of Engagement and Client Information letter, signed by the Applicant and dated 23rd June 2021, in respect of the Applicant's agreement with them for the sale of the Property.
3. The Respondent had been validly served by Sheriff Officers with the Notification, Application papers and Guidance Notes from the Tribunal on 23rd August 2021, and the Certificate of Intimation was produced.

Case Management Discussion

4. A Case Management Discussion ("CMD") proceeded remotely by telephone conference call at 10am today, 21st September 2021. The Applicant's Representative's Ms L Fyffe attended. The Respondent also attended.
5. Ms Fyffe stated that the arrears of rent owing by the Respondent were now in the sum of £4138.46. Ms Fyffe stated that the Property was the Applicant's sole rental property and that she relied on gaining rental income from it. Ms Fyffe said that the Applicant's Barbers business had been adversely affected by the lockdowns necessitated by the current public health pandemic and that the Applicant cannot not sustain increasing rental arrears and now requires to sell the Property to try to avoid insolvency. Ms Fyffe submitted that the Applicant had provided the Respondent with sufficient notice of her intention to recover possession of the Property and that the Respondent, who had not paid rent since the Application was lodged, had had adequate time within which to obtain alternative accommodation. Ms Fyffe submitted that, in all the circumstances, it was reasonable that an order for recovery of possession of the Property be granted.
6. The Respondent acknowledged that he had not paid rent for some months. He stated that he had not been working due to the circumstances of the public health pandemic. He was unclear as to the exact level of arrears and said that he wished to obtain advice in that regard. He stated his intention to pay rent arrears when he has resumed work. The Respondent stated that the Applicant and others had recently attended at the Property and demanded payment of outstanding rent, which actions he considered to be harassment. The Respondent submitted that, nevertheless, he understood that the Applicant was entitled to recover her property. He said that he empathised with the Applicant as he, also, is self-employed and has been suffering financial difficulties. The Respondent stated that he is actively seeking alternative accommodation and needs some time to secure this. He said that he is, in particular, asking family and friends to provide him with fresh accommodation.

Statement of Reasons

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 (1) (1) of the 2016 Act provides that it is an eviction ground that a landlord intends to sell the let property and confirms the criteria for the grant of an eviction order on this ground.
9. The Tribunal considered the Application papers, including the PRT, Notice to Leave and the Applicant’s Representative’s Terms of Engagement and Client Information letter. The Tribunal, in particular, considered the statements and submissions made by Ms Fyffe and the Respondent today. Having done so the Tribunal was satisfied that the Applicant sought recovery of the Property in order to sell it and determined that it is just, and reasonable, to make an order for recovery of possession of the Property, in favour of the Applicant, now. After confirming their decision orally at today’s CMD the Tribunal indicated to the Respondent that regulations govern the time limits for enforcement of the order for possession and encouraged him to seek independent housing law advice regarding the regulations, and the recovery/enforcement process, when he is taking advice in respect of the issue of rental arrears

Decision

10. 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

21st September 2021

Legal Member

Date



