



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 (“The Act”)

Chamber Ref: FTS/HPC/EV/21/2296

Re: Property at 28 Kingsway Terrace, Dundee, DD3 8JU (“the Property”)

Parties:

Mr Martin Forbes, 9 Kinmonth Road, Drumlithie, Stonehaven, AB39 3YF (“the Applicant”)

Mr Christopher Defranco, Ms Olivia-Ann Ferguson, 28 Kingsway Terrace, Dundee, DD3 8JU (“the Respondents”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Frances Wood (Ordinary Member)

Decision

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

Background

The Applicant seeks an Eviction Order under Grounds 12 of Schedule 3 of the Act. The Application is accompanied by a copy of the Notice to Leave emailed to the Respondents, the tenancy itself and a notice under s11 of the Homelessness Etc. (Scotland) Act (2003). Proof of having complied with the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2021 was also supplied.

The Case Management Discussion

The Application called for a Case Management Discussion by conference call at 10 am on 29 November 2021. The Applicant was represented by Ms Nicola Caldwell of TC Young Solicitors. The Respondents were represented by Ms Kate Menzies of Dundee Law Centre. The Application called alongside a related Application in respect of a Payment Order.

Ms Menzies confirmed that the Respondents wished the Tribunal to make the Eviction Order as it would assist in allowing them to obtain alternative accommodation. Universal Credit and Discretionary Housing Payment payments were now being paid directly to the Applicant and at today's date the sum of £1,810.05 was still lawfully due as rent arrears. Ms Menzies confirmed that DHP was a short-term measure and along with the Universal Credit payment would pay the full monthly rent due until the tenancy ended but would not clear the arrears. The Tribunal also carefully questioned parties on the reasonableness or otherwise of granting the order.

Having considered the Application and having heard from parties, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The parties entered into a tenancy at the Property which commenced on 31 May 2020;*
- II. *The Applicant was the landlord and the Respondent was the tenant;*
- III. *The contractual monthly rent due under the tenancy was £650.00;*
- IV. *The Respondents fell into rent arrears;*
- V. *The Applicant competently served a Notice to Leave by email to the Respondents on 23 February 2021 in respect of Grounds 12 of Schedule 3 of the Act;*
- VI. *The Notice to Leave provided the requisite period of notice to the Respondents;*
- VII. *At the time the Notice to Leave was served the terms of Grounds 12 of Schedule 3 to the Act was engaged in that the Respondents had been in rent arrears for at least three months and more than one month's worth of rent was due. The same was also true as at today's date;*

VIII. *The Applicant complied with the terms of s 11 of the Homelessness Etc. (Scotland) Act (2003) and the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.*

IX. *It is reasonable that the Application is granted.*

Reasons for Decision

Having made the above findings in fact, the Tribunal granted the Application and made 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.

29 November 2021

Legal Member/Chair

Date