



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/22/0390

Re: Property at 49 Wellington Street, Wishaw, ML2 7EU (“the Property”)

Parties:

Mr Duncan Vaux, 250 Myton Road, Warwickshire, CV34 6PT (“the Applicant”)

Mr Darren Knox, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made an Eviction Order.

Background

The Applicant seeks an Eviction Order on the basis of Ground 12 of Schedule 3 of the Act. The Application is accompanied by a Notice to Leave and proof of it having been served, rent statements, proof of compliance with s11 of the Homelessness (Etc) (Scotland) Act 2003 and with the terms of The Rent Arrears- Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.

The Respondent’s whereabouts could not be determined by Sheriff Officers and permission had been granted for service on the Respondent of the Application by advertisement on the Tribunal website. Service in this manner had subsequently been competently effected.

The Case Management Discussion

The Application called for a Case Management Discussion (CMD) by conference call at 10am on 1 September 2022. The Application called alongside a related Application in respect of a Payment Order. The Applicant was represented by Ms Barclay of Happy Lets. There was no appearance by or on behalf of the Respondent. Service of the Application having been competently effected, the Tribunal decided to proceed in the absence of the Respondent. Having heard from Ms Barclay and having considered the Application and attachments, the Tribunal made the following findings in fact.

Findings in Fact

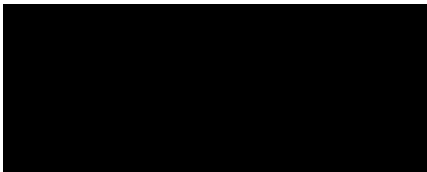
- I. *The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondent on a Private Residential Tenancy which commenced on 26 July 2019;*
- II. *The contractual monthly rent was £450.00;*
- III. *The Respondent quickly fell into rent arrears;*
- IV. *The Applicant competently served a Notice to Leave on the Respondent on 19 March 2021 in respect of Ground 12 of Schedule 3 of the Act;*
- V. *The Applicant complied with the terms of The Rent Arrears- Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;*
- VI. *The Applicant complied with the terms of s11 of the Homelessness (Etc) (Scotland) Act 2003;*
- VII. *Ground 12 of Schedule 3 of the Act was established both at the date of service of the Notice to Leave and also as at today's CMD;*
- VIII. *The Respondent has almost certainly vacated the Property and his whereabouts cannot reasonably be established. He has changed the locks in the Property without consent and refused to engage at all with the Applicant as to why he has failed to pay the contractual monthly rent;*
- IX. *The Respondent has offered no explanation at any point about the cause of his financial difficulties or personal circumstances;*
- X. *It is reasonable to make an Eviction Order.*

Reasons for Decision

Having made the above findings in fact, the Tribunal decided to grant 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.



Legal Member: Andrew McLaughlin

Date: 01/09/2022