



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/22/1278

Re: Property at 15 Ranco Gardens, Uddingston, G71 6GZ (“the Property”)

Parties:

Mr Kamran Ahmed, C/O 26 Cadzow Street, Hamilton, ML3 6DG (“the Applicant”)

Mr Scott Daniel Lynch, 15 Ranco Gardens, Uddingston, G71 6GZ (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Frances Wood (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 in respect of Ground 12 of Schedule 3 of the Act on the basis that it is said that the Respondent was in arrears of rent of at least one month’s worth of rent for a period of at least three months both at the date of service of a Notice to Leave and as at the date of today’s Case Management Discussion. The Application is accompanied by a copy of the tenancy agreement, a rent statement, the Notice to Leave and proof of it having been served, together with evidence of compliance with The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.

The Case Management Discussion

The Application called for a Case Management Discussion (CMD) by conference call at 2pm on 29 August 2022. The Applicant was represented by Ms Smith of Excel Letting Ltd. There was no appearance by or on behalf of the Respondent. The Application and information about how to join the conference call had been served on the Respondent by Sheriff Officers on 27 July 2022. The Tribunal therefore decided to proceed in the absence of the Respondent.

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

Findings in fact

- I. *The parties entered into a tenancy agreement in respect of the Property which commenced on 9 March 2019;*
- II. *The Applicant was the landlord and the Respondent was the tenant;*
- III. *The contractual monthly rent was £650.00;*
- IV. *The Respondent fell into rent arrears;*
- V. *On 28 October 2021 the Applicant competently served a Notice to Leave on the Respondent in respect of Ground 12 of Schedule 3 of the Act;*
- VI. *At that date, the Respondent was in arrears of rent of at least one month's worth of rent for a period of at least three months;*
- VII. *There was a minor error on the Notice to Leave whereby the Respondent had been informed that any necessary Application would not be submitted to the Tribunal for an eviction order before 30 April 2022 instead of 1 May 2022 which would have been the correct date on the basis the Notice to Leave was completed and served on 28 October 2021;*
- VIII. *The Applicant has complied with s 11 of the Homelessness (Etc) (Scotland) Act 2003;*
- IX. *The Applicant has complied with the terms of The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;*
- X. *As at today's date the Respondent is in arrears of rent in the sum of £10,275.00;*
- XI. *This sum is in excess of at least one month's worth of rent and the Respondent has been in arrears for a period of at least three months;*

- XII. *Ground 12 of Schedule 3 of the Act is established;*
- XIII. *The Respondent lives alone in the Property although he may occasionally have his teenage children visit;*
- XIV. *The Respondent is no longer making any rental payments whatsoever;*
- XV. *The Respondent refuses to engage with the Applicant;*
- XVI. *The Respondent has indicated he will only vacate the Property when an order is granted;*
- XVII. *The Respondent has refused to cooperate with the Applicant in accessing financial support including the tenant hardship fund which otherwise might have assisted the Respondent;*
- XVIII. *It is reasonable to grant the Eviction Order.*

Reasons for Decision

Having made the above findings in fact, the Tribunal decided to engage the terms of s73 of the Act and consider that the error in the Notice to Leave was minor and did “*not materially affect the effect of the document*”. The Tribunal considered that Ground 12 was established and that it was reasonable to grant the order. The Tribunal therefore granted the 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.

A. McLaughlin

29th August 2022

Legal Member/Chair

Date