



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 Private Housing (Tenancies) (Scotland) Act 2016.

Chamber Ref: FTS/HPC/EV/22/2942

Re: Property at 11 Hartfield Crescent, Neilston, Glasgow, G78 3PB (“the Property”)

Parties:

Mr John Hughes, 50 Gleniffer View, Neilston, Glasgow, G78 3EZ (“the Applicant”)

Mr Craig Martin, 11 Hartfield Crescent, Neilston, Glasgow, G78 3PB (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Elaine Munroe (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.

- 1.** This Hearing was a Case Management Discussion (hereinafter referred to as a “CMD”) concerned an Application for an Eviction Order under the Private Housing (Tenancies) (Scotland) Act 2016. The purpose of the CMD being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision could be made. The hearing took place by teleconference.
- 2. Attendance and Representation.**

The Applicant was present.

The Respondent was not present and was served by Sheriff Officer on 25th January 2023.

3. Preliminary Matters.

The Respondent was present. The Applicant said the Respondent does not answer his phone or texts and the last contact he had with him was on the 9th December 2022.

There were no other preliminary matters raised.

4. Case Management Discussion.

The Applicant sought that the Tribunal grant an Order for Eviction. He said that he had struggled to deal with the rent arrears that have accrued under the Private Residential Tenancy with the Respondent. The rent payable is £350 per month, and the Respondent had said this was affordable as he had previously left a local authority rent of £500 a month.

The Applicant said he was unsure if the Respondent was on benefits and may work casual. He said the Respondent may have been in receipt of benefits as he maintained that he thought the local authority would have met his rent separately which was not true. The last payment to rent was a payment in January 2022 and the arrears are now in excess of £6000.

The Applicant said that the Respondent is in his 30's, has no dependents and the property is a one bedroom end of terrace house. The Applicant said he had tried to help the Respondent with payment plans, the possibility of a tenant loan and provided him with information. The Respondent agreed each time to a plan but he has not followed through with anything.

The Applicant said he rents 3 properties, one of which has a stable 10 year tenant. He is a lift engineer but he has been unable to work since last year himself due to the a cancer diagnosis in his family and caring responsibilities. ,The Applicant had hand delivered the Notice to Leave with his son, he went through it with the Respondent and discussed it and no payments to arrears have since been received.

1. Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made in the absence of the Respondent at the Hearing and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. The Respondent had been served personally by Sheriff Officer and had not provided any written representations or appeared at the Hearing.**
- 2. The Applicant sought an Order for Eviction on the grounds of rent arrears.**
- 3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property as a copy title was lodged with the Application.**

4. There was a PRT in place between parties dated 12th March 2021.
5. A Notice to Leave was delivered to the Respondent and the Applicant explained the contents of same to the Respondent in the presence of his son on 5th July 2022. At the date of the notice rent arrears were £3390.
6. The Applicant has sent significant pre action requirement correspondence to the Respondent and a copy of same was lodged alongside leaflets and help provided to the Respondent.
7. The Tribunal was satisfied on balance that the Respondent was in terms of Schedule 3, Part 3 Ground 12 of the 2016 Act at the beginning of the day the Tribunal first considered the application for an Eviction Order on its merits in arrears of rent by an amount equal to or greater than the amount which would be payable as rent under the tenancy on that day and has been in arrears of any amount for a continuous period of up to 3 or more consecutive months.
8. As at the date of the hearing the rent arrears for the property due by the Respondent amounted to over £6000. Monthly contractual rent is £350. As at the rent statement lodged with the application the rent arrears were £4090.
9. Further the Tribunal was satisfied on a balance of probabilities that the said arrears are not wholly or partly due to delay or failure of payment of the relevant benefit.
10. The Tribunal found that the requirements of Ground 12 of Schedule 3 to the Act had been met.
11. Further the Tribunal was satisfied that the rent arrears were of a substantial nature.
12. The Tribunal was also satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period.
13. The Tribunal noted the Local Authority under the 2016 had been notified.
14. On the evidence available to the Tribunal the Respondent had no dependents residing with him. The Applicant had himself been unable to work due to caring responsibilities. The Tribunal found an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020.
15. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.

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.



3rd March 2023

Legal Member/Chair

Date