



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“The Act”)

Chamber Ref: FTS/HPC/EV/22/3438

Re: Property at 51B Milnbank Road, Dundee, DD1 5PY (“the Property”)

Parties:

Mrs Susan Jones, Mrs Shona McLaren, Tomaknock House, Crieff, Perthshire, PH7 3QH; Knox House, Coldwells Road, Crieff, PH7 4BB (“the Applicants”)

Mr Nathan Henderson, 51B Milnbank Road, Dundee, DD1 5PY (“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 under Ground 12 of the Act in that it is said that the Respondent owes rent arrears of in excess of one month’s worth of rent and has been so indebted for a period of three months at the time of raising the Application. The Application is accompanied by a copy of the tenancy agreement between the parties, a rent statement, a Notice to Leave with proof of service and evidence of compliance with s11 of the Homelessness (etc) (Scotland) Act 2003.

The Case Management Discussion

The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 20 January 2022. The Application called alongside a conjoined case in respect of an Application for a Payment Order between the parties.

The Applicants were represented by Ms McNicol, solicitor, of MacNabs LLP. 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 30 November 2022. Accordingly, the Tribunal decided to proceed in the absence of the Respondent. The Tribunal heard from Ms McNicol and carefully questioned her on the substance of the Application and also on the reasonableness of granting any order. Having done so, the Tribunal made the following findings in fact.

Findings in fact

- I. *The parties entered into a tenancy agreement whereby the Applicants let the Property to the Respondent on a Private Residential Tenancy which commenced on 4 November 2019;*
- II. *The contractual monthly rent was £400.00;*
- III. *The Respondent fell into rent arrears;*
- IV. *On 25 July 2022 the Applicants competently served a Notice to Leave on the Respondent in terms of Ground 12 of the Act;*
- V. *At that time the Respondent was in arrears of rent of a sum equal to at least one month's worth of rent and had been in arrears for a period of at least three months;*
- VI. *The Notice to Leave provided the correct statutory notice period of 28 days before it was stated that any Application would be made to this Tribunal;*
- VII. *The Applicants have complied with s 11 of the Homelessness (Etc) (Scotland Act 2003;*
- VIII. *The Applicants complied with their obligations under the terms of The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020. The Applicants attempted to signpost the Respondent to sources of help. They also attempted to enter into a payment plan and also source grant funding for the Respondent. The Respondent failed to cooperate;*
- IX. *The rent arrears have now increased and no payment at all has been received since June 2022. The Respondent has provided no reason at all for his non engagement and non-payment;*
- X. *The Respondent is thought to live alone and be employed by the University of Dundee;*

XI. *Grounds 12 continues to be established as at today's date;*

XII. *It is reasonable that an Eviction Order is made.*

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.

A. McLaughlin

Legal Member/Chair

20 January 2023

Date