



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

Chamber Ref: FTS/HPC/EV/23/1331

Property: 33 Boydfield Avenue, Prestwick, KA9 2JL ("the Property")

Parties:

Mr Kessar Khaliq, Little Underhill, By Craigie, Kilmarnock, KA1 5NF ("the Applicant")

Mr Alun Graeme Edmiston, 33 Boydfield Avenue, Prestwick, KA9 2JL ("the Respondent")

**Tribunal Members: Gillian Buchanan, Legal Member
Ann Moore, Ordinary Member**

Decision (in absence of the Respondent)

At the Case Management Discussion ("CMD"), which took place by telephone conference on 29 August 2023, the Applicant was represented by Elaine Dunlop of Homesure Property Management. The Respondent was neither present nor represented and had lodged no written representations.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

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

Background

The Tribunal noted the following background:-

- i. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 24 October 2022.
- ii. The rent payable in terms of the PRT is £440 per calendar month in advance.
- iii. On 24 March 2023, the Applicant's agent served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 24 April 2023 on the basis that the Respondent was in rent arrears over three consecutive months, totalling £1,760.

- iv. The Applicant's agent has served on South Ayrshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the CMD Ms Dunlop for the Applicant made the following representations:-

- i. The rent arrears balance as at the CMD is £2,198.17.
- ii. In March 2023 Ms Dunlop applied to Universal Credit to receive housing payments directly. The first payment was made on 30 March 2023. There is an additional deduction made from the Respondent's benefits and the total sums paid towards the ongoing rent due are £363.73 per month. There is an ongoing shortfall each month of £76.27.
- iii. The Respondent made full payment of the rent in October and November 2022. Since then he has made no payments at all.
- iv. The deposit previously paid by the Respondent in terms of the PRT remains held.
- v. The Respondent continues to live in the Property. He lives there alone. He is not disabled.
- vi. The Respondent was made redundant in December 2022. He was employed in a bakery. Ms Dunlop assisted the Respondent applying for benefits at that time and he assured her he would pay the rent. Ms Dunlop was in constant contact with the Respondent as a result. He ought to have first paid rent from his benefits in February 2023. He didn't do so. Ms Dunlop went to see him and he stated that he had received 2 months Universal Credit and had gone to the pub.
- vii. The Respondent does not now respond to emails and his phone does not receive incoming calls.
- viii. Pre-action protocol letters were sent by email to the Respondent on 8, 15 and 22 March 2023. He did not engage.
- ix. The Applicant seeks an eviction order.

Findings in Fact

- i. The Applicant leased the Property to the Respondent in terms of the PRT.
- ii. The rent payable in terms of the PRT is £440 per calendar month in advance.
- iii. On 24 March 2023, the Applicant's agent served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 24 April 2023 on the basis that the Respondent was in rent arrears over three consecutive months, totalling £1,760.
- iv. The rent arrears balance as at the CMD is £2,198.17.
- v. The Respondent made full payment of the rent in October and November 2022. Since then he has made no payments at all.
- vi. The deposit previously paid by the Respondent in terms of the PRT remains held.
- vii. The Respondent continues to live in the Property. He lives there alone. He is not disabled.
- viii. The Respondent was made redundant in December 2022. He was employed in a bakery. Ms Dunlop assisted the Respondent applying for benefits at that time and he assured her he would pay the rent. Ms Dunlop was in constant contact with the Respondent as a result. He ought to have first paid rent from his benefits in February 2023. He didn't do so. Ms Dunlop went to see him and he stated that he had received 2 months Universal Credit and had gone to the pub.
- ix. In March 2023 Ms Dunlop applied to Universal Credit to receive housing payments directly. The first payment was made on 30 March 2023. There is an additional deduction made from the Respondent's benefits and the total sums therefore paid

towards the ongoing rent due are £363.73 per month. There is an ongoing shortfall each month of £76.27.

- x. The Respondent does not now respond to emails and his phone does not receive incoming calls.
- xi. Pre-action protocol letters were sent by email to the Respondent on 8, 15 and 22 March 2023. He did not engage.
- xii. The Applicant's agent has served on South Ayrshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- xiii. It is reasonable to grant an eviction order.

Reasons for Decision

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant within the application papers and orally on his behalf at the CMD was not challenged and was accepted by the Tribunal.

The arrears are the equivalent of almost 5 months rent. The Respondent had not engaged at all since March 2023.

The Tribunal considered whether or not it would be reasonable to grant an eviction order and determined that it is reasonable to grant an eviction order under Ground 12 of Schedule 3 of the 2016 Act.

Decision

The Tribunal grants an order for the Respondent's eviction from the Property.

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.

Gillian Buchanan

Legal Member/Chair

29 August 2023
Date