

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

Chamber Ref: FTS/HPC/EV/21/0945

Re: Property at 8 Rintoul Avenue, Blairhall, Dunfermline, KY12 9PW (“the Property”)

Parties:

Mr Brian Robinson, The Croft, 21 Main Street, Carnock, Dunfermline, KY12 9JG (“the Applicant”)

Ms Cathrine Wood, 8 Rintoul Avenue, Blairhall, Dunfermline, KY12 9PW (“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”) determined that:

Background

The Applicant seeks an Eviction Order based on Grounds 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“The Act”). The Application is accompanied by a Notice to Leave which specified the relevant Grounds and which was emailed to the Respondent on 12 October 2020 and provided a date of 15 April 2021 after which proceedings may be raised. The Application was also accompanied by a rent statement which showed the rent arrears said to have been due over the course of the tenancy.

Evidence was also provided of how the Applicant was said to have complied with their obligations under The Rent arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020. Evidence was also provided of compliance with s11 of the Homelessness etc. (Scotland) Act 2003.

Case Management Discussion

The Application called for a Case Management Discussion by conference call at 10 am on 7 June 2021. The Applicant was present on the call along with his representative, Mrs Rachel Robinson. 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 13 May 2021. The Tribunal therefore considered it fair to proceed in the absence of the Respondent.

Although the case was therefore unopposed, the Tribunal questioned the Applicant carefully with a view to assessing the reasonableness or otherwise of making the order sought.

Having heard from the Applicant and his Representative and having considered the Application, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The parties entered into a Private Residential Tenancy at the Property which commenced on 26 April 2019;*
- II. *The Applicant is the landlord and the Respondent is the tenant;*
- III. *The contractual monthly rent due was £444.50;*
- IV. *The Respondent fell into rent arrears early in the tenancy, stopped paying any rent from September 2020 and failed to cooperate with the Applicant in looking to address her financial difficulties or make any meaningful arrangements to either pay rent or pay off arrears ;*
- V. *The Applicant went to great lengths to assist the Respondent by referring her to advice agencies and even contacting the DWP directly to seek direct payment of the housing element of Universal Credit, but was informed by the DWP that the Respondent had not intimated her current address to them and failed to attend an appointment to address the situation;*
- VI. *As at October 2020, the Respondent was in rent arrears of £2,922.00;*
- VII. *The Applicants validly served a Notice to Leave in respect of Grounds 12 of the Act on the Respondent by email on 12 October 2020;*

- VIII. *The Notice to Leave specified that no proceedings would be raised before 15 April 2021;*
- IX. *When this Application was lodged on 16 April 2021, the Respondent had rent arrears of £5,552.00;*
- X. *The Respondent had made two payments towards arrears – of £34 and £35 in the months of April and May – but had otherwise not made any inroads into the considerable sums owing;*
- XI. *The legal test set out in Grounds 12 of Schedule 3 of the Act is met in that the Respondent was in arrears of rent of at least one full month's worth of rent for a period of three months prior to the sending of the Notice to Leave. This also applied at the date of today's Case Management Discussion;*
- XII. *The Applicant has complied with their obligations under The Rent arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;*
- XIII. *The Applicant is suffering financial hardship as a result of having to pay a mortgage on a Property with no rental income being received;*
- XIV. *The Applicant recently lost his job and relies in part on the rental income from the Property to support his family;*
- XV. *The Respondent lives with two children in the Property but clearly cannot afford the Property and there is no prospect of her realistically clearing her arrears and making the monthly rental payments in the near term;*
- XVI. *The Respondent has not cooperated with the Applicant in attempting to address her financial difficulties;*
- XVII. *Grounds 12 of Schedule 3 of the Act is engaged and the Applicant has complied with all the necessary statutory processes before bringing this Application;*
- XVIII. *It is reasonable that the Eviction Order sought be granted.*

Reasons for Decision

Having made the above findings in fact, the Tribunal decided to grant the Application and make the Eviction Order as sought.

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.

Andrew McLaughlin

**Legal Member:
Date:07/06/2021**