

Housing and Property Chamber

First-tier Tribunal for Scotland



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/CV/21/1310

Re: Property at 93d East Main Street, Darvel, Ayrshire KA17 0JQ (“the Property”)

Parties:

Mr Kevin Wright, 32 Endowood Road, Sheffield, S7 2LZ (“the Applicant”), and

Clarity Simplicity Lt, 34 Woodlands Road, Glasgow, G3 6UR (“the Applicant’s Representative”) and

Mr Daryl McWilliam, 93d East Main Street, Darvel, Ayrshire KA17 0JQ (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

G Darroch- Ordinary Member

Decision in absence of the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines as follows:

Background

1. This Application, contained in papers lodged with the Tribunal between 1st and 23rd June 2021, was brought in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).

2. The Applicant had provided the Tribunal, in the Application, with copies of the parties' Private Residential Tenancy Agreement ("the PRT"), the Notice to Leave served on the Respondent and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice intimated to East Ayrshire Council. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied.
3. The Respondent had been validly served by Sheriff Officers with the Notification, Application papers and Guidance Notes from the Tribunal on 22nd July 2021, and the Certificate of Intimation was produced.
4. The Applicant's Representative lodged an amended Application, updating the rent arrears owing to the sum of £2043.05, on 4th August 2021.
5. The Respondent had not lodged any representations in respect of the Application.

Case Management Discussion

6. A Case Management Discussion ("CMD") proceeded remotely by telephone conference call at 10am today, 19th August 2021. The Applicant's Representative's Ms L Dalgleish attended. The Respondent did not attend and was not represented. Ms Dalgleish referred to the amended Application lodged with the Tribunal on 4th August 2021. She submitted that the Respondent was in arrears of rent in the sum of £2043.05, at 6th August 2021. Ms Dalgleish further submitted that the Applicant, and his letting agent, were not aware of the Respondent having a current Universal Credit ("UC"), Housing Element claim, following the Applicant's receipt of one payment from UC, of £195.48 on 4th 2021. She also stated that she was not aware of the Respondent having any dependents or particular needs which would be factors for the Tribunal to consider when determining whether or not to grant an eviction order. She submitted that as the Respondent had been served with all papers in respect of the Application for an eviction order, was aware of the CMD and had not attended, and had not made any representations regarding the reasonableness of the granting of an eviction order, such an order should be granted.

Findings in Fact and Law and Reasons for Decision

7. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") the Tribunal is to issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
8. Schedule 3 (12) (1) of the 2016 Act provides that it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

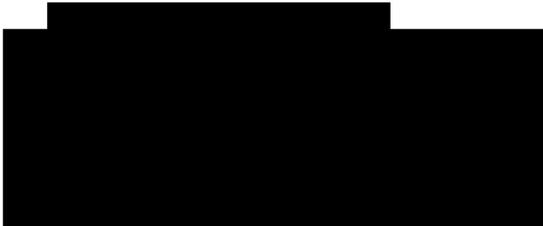
9. The Tribunal considered all of the Application papers, including the PRT, Notice to Leave and Rent Statements lodged by the Applicant's Representative, as well as the submission of the Applicant's Representative's Ms Dagleish.
10. The Respondent had not lodged representations with the Tribunal regarding the reasonableness of the grant of an eviction order or attended the CMD to provide any evidence, and/or make any submission, to oppose, and contradict the basis for, the order sought by the Applicant.
11. Having considered all of the evidence, representations and submissions, the Tribunal finds in fact that the Respondent had been in rent arrears for three or more consecutive months at the date of the Application, and is in arrears of £2043.05 at the present date. The Tribunal finds in law that the ground in Schedule 3 (12) (1) of the 2016 Act is met and determines that it is reasonable that an eviction order be granted.

Decision

12. The Tribunal therefore makes an eviction order as sought in this 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.



Legal Member

19th August 2021

Date