

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/23/1036

Re: Property at 34D College Street, Buckhaven, Leven, KY8 1JX (“the Property”)

Parties:

Mr Mohammed Naeem, 1 Donibristle Gardens, Dalgety Bay, Dunfermline, KY11 9NQ (“the Applicant”)

Miss Chelsea King, 34D College Street, Buckhaven, Leven, KY8 1JX (“the Respondent”)

Tribunal Members:

Nairn Young (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”) determined that

- Background

This is an application for an eviction order against the Respondent, who occupies the Property in terms of a private residential tenancy agreement with the Applicant. It called for a case management discussion (‘CMD’) at 2pm on 20 July 2023, by teleconference. The Applicant was represented on the call by Mr Reid of Charles Wood and Son Ltd, solicitors. The Respondent was not on the call or represented.

Details of the CMD and the application were served on the Respondent by sheriff officers on 14 June 2023. The Tribunal considered that the Respondent was aware of the CMD and had chosen not to attend; and that it was therefore fair to proceed in her absence.

- Findings in Fact

1. The Applicant lets the Property to the Respondent in terms of a private residential tenancy with a start date of 1 May 2021.
2. In terms of that tenancy agreement, rent of £350 is due on the first day of each month.
3. As at 1 February 2023, the Respondent had been arrears of rent for 12 consecutive months.
4. On 6 February 2023, the Applicant served a notice to leave on the Respondent stating that it intended to seek an eviction order on Grounds 11 and 12 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016: i.e. that she was in breach of a term of her tenancy (other than payment of rent); and that she had been in rent arrears over three consecutive months.
5. On the same day, the Applicant sent a letter to the Respondent complying with the requirements of pre-action protocol.
6. The Respondent has remained in arrears of rent since then.

- Reasons for Decision

7. During the sift of the application, the Applicant was given permission to proceed on Ground 12A of Schedule 3 to the Act and it was this ground that was principally relied on. The Tribunal considered that this ground was made out. The arrears are significant in this case and have persisted for eighteen months, without any payment or contact from the Respondent. Against that background, there was nothing presented by the Respondent to suggest that it was unreasonable to evict in the circumstances.

- Decision

Eviction order granted.

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.

N. Young

20 July 2023

Legal Member/Chair

Date