



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/21/2402

Re: Property at 18 G Castle Street, Aberdeen, AB11 5BQ (“the Property”)

Parties:

Mrs Jenny Ironside, Lairhillock House, Netherley, Aberdeenshire, AB39 3QS (“the Applicant”)

Mr Andraius Dudas, 18 G Castle Street, Aberdeen, AB11 5BQ (“the Respondent”)

Tribunal Members:

Alastair Houston (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted in favour of the Applicant in terms of paragraph 12 of schedule 3 of the 2016 Act.

1. Background

- 1.1 This is an application under Rule 109 of the Chamber Rules whereby the Applicant seeks an eviction order on the basis of paragraph 12 of schedule 3 of the 2016 Act. An amended application had required to be submitted and was accompanied by copies of the written agreement between the parties, a notice to leave, rent statement, letter to the Respondent dated 15 January 2021 and a notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003.
- 1.2 The Respondent had not lodged any written representations in advance of the Case Management Discussion.

2. The Case Management Discussion

- 2.1 The Case Management Discussion took place on 28 January 2022 by teleconference. The Applicant was represented by Ms Chloe Baxter, letting agent. The Respondent was neither present nor represented.
- 2.2 The Tribunal noted that service of the application and notice of the Case Management Discussion had been given to the Respondent by Sheriff Officer on 24 December 2021. Accordingly, the Tribunal considered it appropriate to proceed in the Respondent's absence as permitted by Rule 29 of the Chamber Rules.
- 2.3 The Tribunal heard from the Applicant's representative. She confirmed that the application was insisted upon. The rent arrears were, as of the date of the Case Management Discussion, £15300.00. A payment order had been granted by the Tribunal last year. No payment had been forthcoming from the Respondent. In addition to the letter dated 15 January 2021, telephone calls had been made and emails sent to the Respondent. The telephone number for the Respondent held by the Applicant's representative was apparently no longer in service and emails were being bounced back. A visit to the property had confirmed that the Respondent still resided at the property. The Respondent was in employment at the commencement of the tenancy however, the Applicant's representative was unaware if he remained in employment. The Applicant resided alone at the property.
- 2.4 Following a brief adjournment to consider the application and submissions by the Applicant's representative, the Tribunal indicated that it was prepared to grant the order sought by the Applicant.

3. Reasons For Decision

- 3.1 The Tribunal considered the application and accompanying documentation, together with the submissions made by the Applicant's representative. Given the material before it, the Tribunal considered it could determine the application without the need for a hearing, as permitted by Rule 19 of the Chamber Rules.
- 3.2 The Tribunal noted that a notice to leave dated 27 January 2021 had been given to the Respondent by Sheriff Officer on the same date. The said notice specified the appropriate ground relied upon by the Applicant and gave the requisite period of notice before an application to the Tribunal could be made, being six months. The rent statement accompanying the notice to leave demonstrated that the Respondent had been in arrears of rent for a period far in excess of three months as of the date of service of the notice.
- 3.3 As the notice to leave was served after 7 April 2020 and relied upon rent arrears accruing, in part, after 27 May 2020, section 51 and paragraph 12

of schedule 3 of the 2016 Act required the Tribunal to consider it reasonable before issuing an eviction order and, in considering whether it was so reasonable, was to have regard to the measure of the Applicant's compliance with the pre-action requirements set out in The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 ("the 2020 Regulations) and whether the arrears have at all accrued as a consequence of a delay or failure in payment of a relevant benefit.

3.4 The Tribunal considered that the Applicant had complied with the pre-action requirements. The information prescribed by regulation 4(2) of the 2020 Regulations had been given to the Respondent by letter dated 15 January 2021. The Applicant's representatives had made further efforts to contact the Respondent to discuss the arrears by telephone and email, without success, satisfying regulation 4(3). In the absence of any response, proposal or payment by the Respondent, there was little for the Applicant to consider in terms of Regulation 4(4).

3.5 In the absence of any written or oral representations by the Respondent, there was nothing to suggest to the Tribunal that the arrears had accrued as a result of any issue with a relevant benefit. The Tribunal further considered the Respondent's circumstances, namely, that he was an adult residing alone and was previously in employment. The Tribunal attached particular weight to the level of arrears in this case, with the equivalent of almost three years' worth of rent outstanding. In all of the circumstances, it was reasonable that the Tribunal granted 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.

Alastair Houston

Legal Member/Chair

28 January 2022

Date