

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(1) of the Private Housing (Tenancies)(Scotland) Act 2016

Reference number: FTS/HPC/EV/20/0194

Order granted on 15 July 2020 in absence of the Respondent

Property: 23 Wallbrae Road, Cumbernauld, North Lanarkshire, G67 2PD

Parties:

Tommy Andreas Franzen, residing at 2 Dornbeg Road, London SE37 7BZ ("the Applicant")

Elaine McManus, residing at 23 Wallbrae Road, Cumbernauld, North Lanarkshire, G67 2PD ("the Respondent")

Tribunal Members:

Paul Doyle (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 12 of part 3 of schedule 3 to the 2016 Act.

Background

The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to leave, served on 4 November 2019, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 2pm on 15 July 2020. The Applicant was represented by his solicitor, Lauren Dalglish of Clarity

Simplicity Ltd (by telephone). The hearing was delayed until 2.12pm to allow sufficient time for the respondent to participate, but there was no appearance by or on behalf of the Respondent.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a private residential tenancy Agreement for the Property dated 11 April 2018. The respondent took entry to the property on the same day.
2. The rent in terms of the Tenancy Agreement was £725 per month.
3. The respondent started to fall behind in rental payments in September 2018. Her rental payments were regularly less than the agreed monthly rental. No rental payments have been made since December 2019. On the day the application was submitted there were arrears of rent totalling £5,080.21, which is more than 3 months' rent. At today's date there are still arrears of rental totalling £6,993.11.
4. On 4 November 2019 the applicant served a notice to leave on the respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 17 January 2020, the applicant submitted an application to the tribunal for an order for possession of the property.
5. The Applicant seeks recovery of possession of the Property in terms Ground 12 of part 3 of schedule 3 to the 2016 Act. The rental was more than three months in arrears at the date the application was submitted. Rental is now almost 10 months in arrears.
6. The respondent offers no resistance to this application. The respondent received notice of this hearing by email.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in terms Ground 12 of part 3 of schedule 3 to the 2016 Act is established. The respondent offers no defence to the application. For these reasons, the Tribunal determined to grant an Order for possession.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing

(Tenancies)(Scotland) Act 2016 under Ground 12 of part 3 of schedule 3 to the 2016 Act.

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.

P. D

Legal Member

15 July 2020