



**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/19/2685

Re: Property at 1 Gumley Place, Edinburgh, EH6 7LS (“the Property”)

Parties:

Hillcrest Enterprises Limited, 1 Explorer Road, Dundee, DD2 1EG (“the Applicant”)

Mr Elvis Ovuorie, 1 Gumley Place, Edinburgh, EH6 7LS (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property under Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”).

Background

1. By application dated 22 August 2019 the Applicant’s representatives, T C Young, Solicitors, Glasgow, applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Ground 12 of Schedule 3 of the 2016 Act as it was alleged the Respondent had accrued rent arrears over three consecutive months. The Applicant’s representatives submitted in support of the application a copy of the Tenancy agreement, a copy of a Notice to Leave, Sheriff Officers Execution of Service relating to the Notice to Leave, a Rent Statement, copy Section 11 Form, Email to Local Authority intimating Section 11 Form and a Rent increase letter and Rent Increase Notice.

2. By Notice of Acceptance dated 14th October 2019 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion was assigned.
3. Intimation of the Case Management Discussion was sent to the Applicant's representative by post on 29 October 2019 and was delivered to the Respondent by Sheriff Officers on 29 October 2019.

The Case Management Discussion

4. A Case Management Discussion was held at Riverside House, 502 Gorgie Road, Edinburgh on 3 December 2019. It was attended by Ms Morrison of the Applicant's representatives on behalf of the Applicant. The Respondent did not attend and was not represented. The Tribunal on being satisfied that the Respondent had been given proper intimation of the Case Management Discussion determined in accordance with Rule 29 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Rules") to proceed with the Case Management discussion in his absence.
5. Ms Morrison confirmed to the Tribunal that the parties had entered into a Private Rented Tenancy Agreement that had commenced on 18 December 2018 at a monthly rent of £823.00. The Respondent had made an initial payment of ££78.54 being the pro rata payment for rent due to 1 January 2019. The respondent had failed to make any further rent payments. Three direct debit payments had been returned unpaid.
6. Ms Morrison went on to explain that a letter enclosing a rent increase notice had been sent to the Respondent on 12 March 2019 intimating that the rent would increase to £838.59 with effect from 1 July 2019.
7. Ms Morrison confirmed that a Notice to Leave was delivered to the Respondent by Sheriff Officers on 26 June 2019. The ground for terminating the lease was Ground 12 of Schedule 3 of the 2016 Act namely that the Respondent had accrued rent arrears over three consecutive months. Ms Morrison confirmed that the earliest date for making an application to the Tribunal had been stated to be 27 July 2019 and this complied with the statutory time period in the legislation.
8. Ms Morrison confirmed a Section 11 Notice had been sent to Edinburgh Council on 22 August 2019 and referred the Tribunal to the copy correspondence submitted with the application.
9. Ms Morrison provided the Tribunal with an up to date rent statement that showed the rent arrears now due by the Respondent as at 1 December 2019 amounted to £9969.54. In the circumstances as the mandatory grounds for eviction under Ground 12 of Schedule 3 had been satisfied Ms Morrison moved the Tribunal to grant the order for the eviction of the Respondent.

Findings in Fact

10. The parties entered into a Private Residential Tenancy Agreement that commenced on 18 December 2019 at a monthly rent of £823.00.
11. The rent increased with effect from 1 July 2019 to £838.59 per month.
12. The Respondent made a single payment of rent of £378.54 on 7 January 2019.
13. The Respondent has accrued rent arrears as at 1 December 2019 of £9969.54.
14. The Respondent was served with a Notice to Leave by Sheriff Officers on 26 June 2019.
15. The Applicant's representatives sent a Section 11 Notice to Edinburgh Council on 22 August 2019.

Reasons for Decision

16. The Tribunal was satisfied from the documents submitted by the Applicant's representatives and the submissions made at the Case Management Discussion on behalf of the Applicant that the parties had entered into a Private Rented Tenancy Agreement and that the initial rent had been £830.00 per month but had been increase by virtue of service of a Rent Increase Notice to £838.59 with effect from 1 July 2019.
17. The Tribunal was also satisfied that the Respondent had been properly served by Sheriff Officers on 26 June 2019 with a valid Notice to Leave under Ground 12 of Schedule 3 of the 2016 Act.
18. The Tribunal was satisfied that proper intimation of the proceedings had been given to the Local Authority by intimation of a Section 11 Notice by email on 22 August.
19. As the Respondent had only made one payment of rent in the sum of £378.54 at the commencement of the lease and had made no further payments the Tribunal was satisfied that the Respondent had been in rent arrears for three or more consecutive months and as the Respondent was in arrears by more than the equivalent of one months rent a mandatory ground had been established.

Decision

20. The Tribunal finds that the Applicant is entitled to an order for the eviction of the Respondent from the property under Ground 12 of Schedule 3 of 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.

G Harding

Legal Member/Chair

3 December 2019

Date