



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/19/2747

Re: Property at 503 Great Northern Road, Aberdeen, AB24 2DD (“the Property”)

Parties:

Mr Colin Duncan, Mill of Durn Cottage, Portsoy, Banff, AB45 2YD (“the Applicant”)

Mr Michal Rafal Wielgosz, 503 Great Northern Road, Aberdeen, AB24 2DD (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 12 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

- **Background**
 1. An application dated 3 September 2019 was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought a repossession order against the Respondent on the basis of rent arrears accrued by the Respondent under a private residential tenancy, being Ground 12 under Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”).

- Case Management Discussion

2. A Case Management Discussion (“CMD”) took place on 5 December 2019. The Applicant and the Respondent were both personally present and representing themselves.
3. The Applicant moved for the Order to be granted as sought. The parties had entered into a Private Residential Tenancy Agreement (“the Agreement”), which commenced 8 June 2018. Said Agreement is entitled “Short Assured Tenancy Agreement” but as it commenced after 1 December 2017, is deemed to be a Private Residential Tenancy in terms of section 12 of the Housing (Scotland) Act 1988. The Respondent fell into rent arrears in November 2018 and there had been a continuous arrear since then. At the date of the CMD no rent had been paid at all in eight months. The monthly rent was £360. A Notice to Leave had been served on the Respondent on the basis of Ground 12 of Schedule 3 to the 2016 Act, on 23 July 2019. The Respondent was still residing within the Property.
4. The Respondent confirmed that no rent had been paid at all in eight months. He had previously been in receipt of Housing Benefit but he was no longer entitled to Housing Benefit. He is unemployed and has no means of paying any rent. No proposed defence to the application was put forward by the Respondent.
5. The following documents were lodged alongside the application:
 - (i) Copy Private Residential Tenancy Agreement
 - (ii) Copy Notice to Leave
 - (iii) Section 11 notification to the local authority under the Homelessness etc. (Scotland) Act 2003
 - (iv) Rent statement

- Findings in Fact

6. The Tribunal made the following findings in fact:
 - (i) The parties entered into a Private Residential Tenancy Agreement (“the Agreement”) which commenced 8 June 2018;
 - (ii) In terms of Clause 4 of the Agreement the Respondent was due to pay rent to the Applicant in the sum of £360 per calendar month;
 - (iii) The Applicant has served a Notice to Leave on the Respondent on the basis of Ground 12 of Schedule 3 to the 2016 Act, and which was served on 23 July 2019;
 - (iv) The Respondent has been in continuous arrears of rent since November 2018;
 - (v) The Respondent is in arrears of rent of at least the equivalent of eight months at the date of the CMD.

- Reasons for Decision

7. The Tribunal was satisfied that the terms of Ground 12 of Schedule 3 to the 2016 Act had been met, namely that the Respondent has been in continuous arrears of rent for at least three months up to and including the date of the CMD and further that the arrears of rent are an amount which is greater than the amount due to be paid as one month's rent. The Tribunal was satisfied that a Notice to Leave had been served on the Respondent and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act.

- Decision

8. The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 12 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

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.

Fiona Watson

Legal Member/Chair

5/12/19

Date