

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/21/1979

Order granted on 8 November 2021 in absence of the Respondent

Property: 124 Minerva Court, Flat 37, Houldsworth Street, Glasgow, G3 8EH

Parties:

Ms Manpreet Kaur, residing at 11 Kiloran Place, Newton Mearns, Glasgow, G77 6WT ("the Applicant")

Mr Darren Gray, residing at 124 Minerva Court, Flat 37, Houldsworth Street, Glasgow, G3 8EH ("the Respondent")

Tribunal Members:

Paul Doyle (Legal Member)
Eileen Shand (Ordinary 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 28 August 2020, 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 10am on 8 November 2021. The Applicant was represented by Ms J McLelland of Castle Residential, letting agents. The hearing was delayed 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 26 July 2019. The respondent took entry to the property on the same day.
2. The rent in terms of the Tenancy Agreement was £625.00 per month.
3. The respondent fell into arrears of rent soon after moving into the property. He has not paid any rental in the last 12 months. At the date the application was submitted there were arrears of rent totalling £12,475.00, which is more than 3 months' rent. At today's date there are arrears of rental totalling £13,100.00.
4. On 28 August 2020 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 August 2021, the applicant submitted an application to the tribunal.
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 four months in arrears at the date the application was submitted. Rental is now 7 months in arrears.
6. The respondent offers no resistance to this application. Sheriff Officers served notice of this hearing on the respondent on 6 October 2021.
7. There is no suggestion that the respondent is in arrears of rent either wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. It is not argued that it is unreasonable to grant an order for repossession of the property. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

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 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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Paul Doyle

8 November 2021

Legal Member