

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 (“the Act”).

Chamber Ref: FTS/HPC/EV/19/4038

Re: Property at 10 Blaiklands Crescent, Coatbridge, ML5 2FF (“the Property”)

Parties:

Mr Paul Sands, c/o 91 Cadzow Street, Hamilton, ML3 6DY (“the Applicant”)

Mr Christopher Kane, 10 Blaiklands Crescent, Coatbridge, ML5 2FF (“the Respondent”)

Tribunal Members:

Andrew Cowan (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application can be determined without an evidential hearing and that an eviction order be granted.

Background

The Tribunal considered an application under section 51(1) of the Act and Rule 109 of the Tribunal Procedure Rules seeking an eviction under Ground 12 of Schedule 3 to the Act.

The Tribunal had regard to the following documents lodged with the application:

1. Application from dated 18th December 2019
2. Private Residential Tenancy Agreement between the parties commencing 13th June 2019
3. Schedule of rent arrears
4. Notice to Leave dated 11th November 2019
5. Copy email to Respondent (with Notice to Leave attached) and automatic email receipt form dated 11th November 2019
6. Copy Section 11 Notice address to North Lanarkshire Council


A Cowan

The Case Management Discussion

The application was considered by the Tribunal at a Case Management Discussion held on 18th February 2020. A copy of the application and the invitation to attend the CMD had been served upon the Respondent by Sheriff Officers on 16th January 2020. The letter to the Respondent inviting him to attend the CMD made clear to the Respondent that the application could proceed in his absence and that the Tribunal could determine the matter if it had sufficient information to do so and the procedure was fair.

The Respondent did not appear and was not represented at the CMD. In advance of the hearing the Respondent had emailed the Tribunal to explain that he was now in a position to make payments towards the arrears of rent. He did not, however, provide any breakdown of his current income or expenditure.

The Applicant was represented at the hearing by his solicitor, Ms Kirstie Donnelly.

Having considered the documentation and heard from the Applicant's solicitor, the Tribunal determined the following findings in fact:

1. The Parties entered into a tenancy agreement commencing on 13th June 2019
2. The monthly rent was £850
3. As at the date of service of the Notice to Leave (dated 11th November 2019) the Respondent was in arrears of rent in the sum of £670.
4. As at the date of the Application the Respondent was in arrears of rent of £1020.
5. As at the date of the CMD the Respondent was in arrears of rent of £2720. Accordingly the Tenant is in arrears of rent greater than the amount of one month's rent as at the date the Tribunal first considered the application on its merits
6. The Respondent has been in continuous arrears of rent since 13th July 2019, being a period of more than three consecutive months
7. A notice to leave has been validly served upon the Respondent by email.
8. There is no evidence to suggest that the rental arrears were due in any part to a failure or delay in paying a relevant benefit.

Decision

The Tribunal considered the findings in fact and the requirements of section 51(1) of the Act. The Tribunal considered that it had sufficient information to determine the matter and that it was fair to do so.

The Tribunal decided that the terms of Ground 12 (1) and (2) of schedule 3 to the Act applied in this matter and that it must therefore issue an eviction order. The current circumstances of the Respondent and his ability, or otherwise, to settle outstanding arrears are not relevant to the Tribunal's decision where the terms of the legislation are mandatory.

A Cowan

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.

A Cowan

Legal Member/Chair

18/2/20

Date