



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 51 of Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/EV/20/0027

Re: Property at 13A Main Street, Dundee, DD3 7EY (“the Property”)

Parties:

Ms Hanna Rashid, C/O 7 Main Street, Dundee, DD3 7EY (“the Applicant”)

Ms May Christie, 13A Main Street, Dundee, DD3 7EY (“the Respondent”)

Tribunal Members:

Jim Bauld (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted

Background

By application dated 28 December 2019, the applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. On 20 January 2020 the application was accepted by the tribunal and referred for determination by the tribunal.

A Case Management Discussion (CMD) was set to take place on 12 March 2020 and appropriate intimation of that hearing was given to both the landlord and the tenant

The Case Management Discussion

The Case Management Discussion (CMD) took place on 10 March 2020 in Caledonian House, Dundee.. The applicant was represented by her father, Mr Abdul Rashid. The Respondent attended and was supported by a Mr Peter Jones

The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters

The tribunal asked various questions of the parties with regard to the application and the grounds for eviction contained within it.

The applicant's representative confirmed that he wished the order sought to be granted

Findings in Fact

The Applicant and the Respondents as respectively the landlord and tenants entered into a tenancy of the property which commenced on 28 May 2019

The tenancy was a private residential tenancy in terms of the Act

The agreed monthly rental was £850

On 22 November 2019 the applicant served upon the tenant a Notice to Leave as required by the Act. The Notice became effective on 25 December 2019.

The notice informed the tenants that the landlord wished to seek recovery of possession using the provisions of the Act.

The notice was correctly drafted and gave appropriate periods of notice as required by law.

The notice set out a ground contained within schedule 3 of the Act, namely ground 12 that the tenant had been in arrears of rent for three or more consecutive months

Arrears had started to accrue from the commencement of the tenancy in May 2019 on 9 August 2018 and at the date of service of the Notice to Leave amounted to £3,409.16.

At the date of the lodging of the application arrears amounted to £4259.16

The tenants had been continuously in arrears from May 2019 until the date of the CMD.

The amount of arrears exceeded one month's rent at the date of the CMD

The basis for the order for possession was accordingly established

Reasons for Decision

The order for possession was sought by the landlord based on a ground specified in the Act and properly narrated in the notice served upon the tenant. The tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the landlord was entitled to seek recovery of possession based upon that ground

The tribunal accepted the evidence presented on behalf of the landlords with regard to the rent arrears. A rent statement was produced which set out the history of the arrears.

At the CMD, the tenant freely admitted that the arrears figure shown on the statement was accurate. She admitted she had failed to make rental payments. She admitted that there was no failure or delay in the payment of any relevant benefit which had caused the arrears to accrue.

The tribunal was satisfied that the tenant had been in arrears for a period far in excess of three consecutive months and the arrears owed were significantly in excess of one month's rent. The ground was accordingly established and the tribunal was obliged in terms of the provisions of the 2016 Act to grant the order sought. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

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.

Mr Jim Bauld

12/03/2020

Legal Member/Chair

Date