

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 71(1) of the Private Housing
(Scotland) Act 2016**

Chamber Ref: FTS/HPC/EV/19/0163

Re: Property at 48 Craigmath, Dalbeattie, DG5 4EB ("the Property")

Parties:

Mr Shaun MacDonald Callaghan, 40 William Street, Dalbeattie, DG5 4EN ("the Applicant") per his agents, Gillespie, Gifford & Brown LLP, solicitors, 27, St. Cuthbert Street, Kirkcudbright, DG6 4DJ ("the Applicant's Agents)

Ms Jackie Landsborough, 48 Craigmath, Dalbeattie, DG5 4EB ("the Respondent")

Tribunal Member:

Karen Moore (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an Order for Possession be granted

Background

1. By application received on 16 January 2019, ("the Application"), the Applicant's Agents on behalf of the Applicant made an application to the Tribunal for a possession order in terms of Section 71(1) of the Act and in terms of Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules"). A copy of the tenancy agreement between the parties, a copy of a Notice to Leave citing rent arrears over three consecutive months and breach of tenancy terms with proof of service, a copy of notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 to Dumfries and Galloway Council with proof of service and statement of rent due and owing were lodged as part of the Application.
2. On 28 January 2019, a legal member of the Tribunal with delegated powers of the Chamber President accepted the Application and a Case Management Discussion ("CMD") was fixed for 6 March 2019 at 14.00 at Lochvale House,

Georgetown Road, Dumfries, DG1 4DF. The CMD was intimated to both parties.

3. The Respondent made no written representations to the Tribunal.

Case Management Discussion

4. The CMD took place on 6 March 2019 at 14.00 at the said Lochvale House, Mr Turnbull of the Applicant's Agents appeared on behalf of the Applicant. Neither the Applicant himself nor the Respondent appeared. Mr. Turnbull confirmed to me that rent amounting to £2,560.00 being four consecutive months rent to the date of the making of the Application remains due as does rent due since that date.

Findings in Fact

5. From the Application and the CMD, I found that a tenancy agreement exists between the parties, that there were rent arrears over three consecutive months at the date of the service of the Notice of Leave and accordingly the terms of the tenancy had been breached. I found that the Notice to Leave had been properly served and that the notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 had been properly intimated to the relevant local authority.

Decision and Reasons for Decision

6. Having found that there were grounds to terminate the tenancy and that the correct procedure had been followed, I then had regard to Rule 17(4) of the Rules which state that the Tribunal "may do anything at a case management discussion which it may do at a hearing, including make a decision" and, accordingly, I determined to grant an order for possession.

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.

K.Moore

Legal Member/Chair

6 March 2019

Date