

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 of the Private Housing (Tenancies) (Scotland) Act 2016.

Chamber Ref: FTS/HPC/EV/19/0884

Re: Property at 173 Balunie Avenue, Dundee, DD4 8TL (“the Property”)

Parties:

Mr Jiji Punnoose, c/o Pavillion Properties, 86 Bell Street, Dundee, DD1 1HN (“the Applicant”)

Mrs Sarah Allan, 173 Balunie Avenue, Dundee, DD4 8TL (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

This is a case management discussion in relation to an application for an eviction order in terms of Rule 109 of the First Tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017. The Applicant did not attend the case management discussion but was represented by Linsey Christison of Pavilion Properties in Dundee. The Application been lodged in the name of one of the property owners but Pavilion Properties had written authorisation to represent the interests of both owners in relation to the application.

The Application was against the Respondent Mrs Sarah Allan and had been served at the property on 15 May 2019 by leaving the application and supporting papers with a Morgan Allan at the address. The Applicant's representative requested to proceed in the absence of the Respondent Mrs Allan and given that the papers had been served by Sheriff Officer, the Tribunal was prepared to proceed in her absence in terms of the Tribunal rules of procedure.

Mrs Valerie Bremner

The Tribunal noted that the application for an eviction order had been lodged against Mrs Sarah Allan only and not against the joint tenant Mr Sean Allan. Tribunal papers had been served on Mrs Allen only and the Tribunal indicated that it could deal only with the application against Mrs Allan. The applicant's representative indicated that she wished to proceed against Mrs Allen alone. The Applicant's representative advised the Tribunal that she believed that the Respondent and joint tenant might have abandoned the property as she had received correspondence from the Council requesting an end date for the tenancy.

The Tribunal had received from the Applicant's Representative the Application, a copy of the private residential tenancy, a Notice to Leave, a rent statement, a notice in terms of the Homelessness etc (Scotland) Act 2003 and a track and trace receipt in respect of the Notice to Leave. During the case management discussion the Applicant's Representative obtained email confirmation that the Homelessness Notice had been emailed to Dundee City Council.

The Respondent along with a Mr Allan had entered into a private residential tenancy with the applicant with effect from 23 March 2018. The monthly rental in respect of the property was £675. The rental statement lodged by the applicant's representative demonstrated that as of 4 March 2019 the rent arrears were £2810. Miss Christison updated the Tribunal at the case management discussion and advised that no further rent had paid by the tenants and the sum outstanding to the end of June 2019 was £4835. The rent arrears had been accrued for a continuous period of over 3 months.

The Tribunal was requested to grant an eviction order in terms of section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The Tribunal reviewed the paperwork which had been lodged and was satisfied that the Notice to Leave had been properly served on the Respondent in terms of the legislation and that the notice in terms of the Homelessness etc (Scotland) Act 2003 had been intimated to the local authority. The Applicant's representative gave no information to suggest that the arrears had accrued by means of any delay or failure in the payment of a relevant benefit.

Findings in Fact

1. The Applicant entered into a private residential tenancy for the property with the Respondent and one other tenant with effect from 23 March 2018. The monthly rent payable in respect of the property was £675.

2.As of March 2019 rent outstanding for the property amounted to £2810. Since the application was lodged by the Applicant's Representative the arrears have grown to £ 4835.

3.The Respondent together with the joint tenant is in continuous arrears of rent for the property for a period in excess of three months.

4.The Applicant's Representative served a notice to leave on the Respondent on 2 February 2019 and said Notice to Leave complies with the notice requirements in section 54 of the Private Housing (Tenancies) (Scotland) Act 2016.

5.The Tribunal had no information to suggest that the rent arrears had accrued due to the failure or delay in payment of a relevant benefit to either or both tenants of the property.

Reasons for Decision

The Tribunal was satisfied that it was reasonable to grant an eviction order against the Respondent given that the requirements of section 51, 54 and Schedule 3, Part 3,Ground 12 the Private Housing (Tenancies) (Scotland) Act 2016 had been met.

Decision

The Tribunal grants an eviction order in terms of section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 against the Respondent Mrs Sarah Allen as she is in continuous rent arrears for more than three months in respect of the property, as set out in Schedule 3,Part 3, Ground 12 of 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.

Mrs Valerie Bremner

Legal Member/Chair

18 June 2019

Date