



**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**

Chamber Ref: FTS/HPC/EV/19/3159

**Re: Property at 15 Watson Street, Cowdenbeath, Fife, KY4 8ND (“the
Property”)**

Parties:

**Mr Akhtar Ali, 79 Woodmill Crescent, Dunfermline, Fife, KY11 4AN (“the
Applicant”)**

**Mr Damen Holmes, 15 Watson Street, Cowdenbeath, Fife, KY4 8ND (“the
Respondent”)**

Tribunal Members:

Valerie Bremner (Legal Member)

Decision (in absence of the Respondent)

Background

This is an Application for an Eviction Order in relation to a Private Residential Tenancy which was lodged with the Tribunal on 4th October 2019.

The application was accepted by the Tribunal on 4 November 2019 and a case Management Discussion was set down for 20 December 2019 for this Application and a conjoined application for a payment order with Tribunal Reference HPC/EV/19/3161.

Summary of Discussion

The Applicant was represented at the Case Management Discussion by Miss Sloey of Jackson Boyd Solicitors who attended by teleconference call. The Respondent did not attend. The Tribunal had sight of an execution of service of the Application and supporting documents along with the date of the case management discussion, all served at the address of the Respondent by Sheriff Officer. Miss Sloey moved the Tribunal to proceed in the absence of the Respondent. This Application was granted in terms of Rule 29 of the Tribunal rules of procedure.

The Tribunal had sight of the tenancy agreement, a Deposit Certificate, a rent statement, a Notice to Leave, email serving the Notice to Leave, a Notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 and a letter to the respondent requesting that he pay rent arrears and comply with the Notice to Leave.

The Parties had entered into a Private Residential Tenancy with effect from 23 April 2018. The monthly rent was £400.

The Eviction Order was sought in respect of rent arrears over a period of several months and in terms of Ground 12 of Schedule 3 of the 2016 Act. The Tribunal had sight of a rent statement which confirmed that no rent had been paid from March 2019 to November 2019 and was advised that no further rent had been paid up to the date of the Case Management Discussion. Miss Sloey advised that the Landlord had no information to suggest that the arrears had accrued due to a delay or failure in the payment of benefit and when he had asked the Respondent about the rent it had never been suggested that there was an issue with rent payment due to issues with any relevant benefit.

The Notice to Leave was in the proper form and contained the correct information. In Part 4 the date given as the date when an application could be submitted to the Tribunal appeared to give an additional two days beyond what was required when the document was said to have been served on 20 August 2019. The Tribunal was invited to regard this as an error which did not affect the validity of the document in terms of Section 73 of the Act. As it appeared that additional days' notice had been given there appeared to be no prejudice to the Respondent and the Tribunal accepted this. The Tribunal also noted that as there was no evidence of actual service of the Notice to Leave on 20 August 2019 the provisions of S62(5) of the Act could be relied on in any event regarding deemed receipt by the Respondent and the period of Notice was satisfied in both circumstances.

The Tribunal was satisfied on the information before it that an Eviction Order should be granted in the circumstances and it is reasonable to do so.

Findings in Fact

1.The Applicant and Respondent entered into a Private Residential Tenancy on 23rd April 2018.

2. The rent agreed was £400 per month.

3.The Respondent is in arrears with the rent at the property and has been continuously in arrears since March 2019.

4.The Tribunal had no information to suggest that the non payment of rent was connected to a delay or failure in the payment of a relevant benefit.

5.A Notice to Leave in the appropriate terms and stating the eviction ground and giving information supporting the ground was served on the Respondent on 20th August 2019 and the appropriate notice period was given.

5.A Notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 was served in respect of this Application.

Reasons For Decision

The Tribunal was satisfied that the terms of section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 are met and Ground 12 of the eviction grounds in Schedule 3 of the Act is met in that the Respondent is in rent arrears at the property for more than 3 consecutive months. The Tribunal was satisfied that it was reasonable to make such an order in the circumstances.

Decision

The Tribunal makes an eviction order against the Respondent in terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 as the Respondent is in arrears of rent for the property over more than three consecutive months.

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.

Valerie Bremner

Legal Member/Chair

20 December 2019

Date