

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

Chamber Ref: FTS/HPC/EV/18/1600

Re: Property at Flat 1/3, 12 Lorne Street, Glasgow, G51 1DP ("the Property")

Parties:

Mrs Isbah Khan, 5 Red Deer Walk, Cambuslang, G72 6PZ ("the Applicant")

Mr Sajid Ali, Mrs Nehreen Ali, Flat 1/3, 12 Lorne Street, Glasgow, G51 1DP ("the Respondent")

Tribunal Members:

Alison Kelly (Legal Member)

Background

The Applicant lodged an application on 26th June 2018 seeking eviction of the Respondents in terms of Ground 12 of Part 3 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.

The Applicant lodged along with the application:

1. Copy Notice to Leave dated 23rd May 2018
2. Copy section 11 Notice
3. Copy Rent statement

Case Management Discussion

The case management discussion was attended by the Applicant, Mrs Khan, and by Gary Kavanagh and Mel Thomson from Elliot Estates, and also by the Respondent, Sajid Ali, and his friend Shezud Ahmed. Mrs Ali was not able to attend as she was looking after her children.

The Chairperson explained the purpose of a Case Management Discussion, and also explained that she had the power to make a final decision once she had heard from the parties.

Mr Kavanagh presented the case for the Applicant. He told the Tribunal that the tenancy began on 4th December 2017, the monthly rental was £575 and that the Respondents had paid a deposit of £575. He referred to the rent statement produced and said that the respondents had made payments of £150 on each of 22nd and 29th January 2018, £200 on 12th February 2018 and £150 on 19th February 2018. No other payments had been made and the arrears currently stood at £4525.

Mr Kavanagh said that there had been numerous contacts made with the Respondents and they had made several offers to pay. The Applicant had even been prepared to accept the rent weekly rather than monthly.

Mr Kavanagh was not aware of any benefits applications made by the Respondents, but told the Tribunal that his agency had offered to help them in making such an application.

The Respondent was then asked for his position. He told the Tribunal that he accepted that he had taken the tenancy on 4th December 2017. He accepted what had been put forward regarding payments made and he accepted that the arrears were currently £4525. He said that he had been in and out of work which had made it difficult to pay. The Chairperson asked him to go through his employment history. He said that when he and his wife took the tenancy he had been running a chip and kebab shop. He could not agree new terms on the lease and the business ceased. He then obtained work on a temporary contract, but lost that job when he took time off when his new baby was born. He applied for jobseekers allowance, which he had for a period of two weeks. He then obtained a job in an insurance company, which he still has, and as a consequence does not qualify for housing benefit, or any other benefit which could assist with the rent. He did offer to make payment of a lump sum, but was not then able to do so.

Miss Thomson, on behalf of the Applicant then said that the agency had done everything they possibly could to assist the Respondents in paying their rent, but she now thought that they had never had any intention of paying.

The respondent had nothing further to say.

Findings in Fact

The Tribunal found:

1. The parties entered in to a lease in respect of the property, which commenced on 4th December 2017, and for which the monthly rental was £575.
2. As at the date the Notice to Leave was served the arrears stood at £2225, and the Respondents had been in arrears for more than three months.
3. As at the date the Application was made the arrears stood at £2800 and the Respondents had been in arrears for more than three months.
4. As at the date of the Case Management Discussion the arrears stood at £4525, and the Respondents had been in arrears for more than three months.
5. The arrears were not accumulated wholly or partly as a consequence of a delay or failure in the payment of a relevant benefit.

Reasons for Decision

The Findings In Fact led the Tribunal to conclude that the order for eviction should be granted and that in the circumstances and in terms of Ground 12 it was mandatory to do so.

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the order for eviction should be granted.

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.

Alison Kelly

Legal Member/Chair

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14 / 9 / 18

Date