



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 (the 2016 Act) and Regulation 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (the Regulations) (the 2017 Regulations).

Chamber Ref: FTS/HPC/EV/19/0661

Re: Property at Flat 1/1, 12 Argyll Terrace, Kirn, Dunoon, PA23 8LR (“the Property”)

Parties:

Ms Heather Collinson, 103 Queen Street, Dunoon, PA23 8AX1 (“the Applicant”)

Mr Paul Andrew Carlin, Flat 1/1, 12 Argyll Terrace, Kirn, Dunoon, PA23 8LR (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member)

Decision (in absence of the Respondent)

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

An eviction order be granted against the Respondent in respect of the Property in terms of Section 51 (1) of the Private Housing (Tenancies) (Scotland) Act 2016.

Background

This is an application for an eviction order. A private residential tenancy is in existence and the Applicant is making the application on the grounds that the Respondent is in arrears of rent for three or more consecutive months. There had been a previous determination to allow the application to proceed although there was a perceived defect in the notice period stated on the Notice to Leave served on the Respondent. That determination had been made in terms of Section 52(4) of the 2016 Act.

The Case Management Discussion

The Applicant was present and was represented by Mr Lorenzo Ranalli, solicitor. The Respondent was not present and it was noted that intimation of the case management discussion had been served on him by Sheriff Officers on 9th July 2019. The Sheriff Officer's certificate of citation was before the Tribunal. The Purpose of a case management discussion was explained to the Applicant.

Mr Ranalli stated that his client was looking for possession of the Property in terms of Ground 12 of Schedule 3 of the 2016 Act. He suggested that a Hearing would not be necessary because the Tribunal had the information necessary to make a determination.

Findings in Fact

- 1. The Applicant and the Respondent are parties to a private residential tenancy in respect of the Property which commenced on 1st May 2018 and is continuing.**
- 2. The monthly rent due in terms of the private residential tenancy is £325.**
- 3. The arrears of rent as of today are £1,634.29.**
- 4. There have arrears of rent of at least £975 for a period in excess of three consecutive months.**
- 5. There is no evidence that the arrears of rent are due to any issues arising from payment of benefits to the Respondent.**
- 6. The Applicant has given the appropriate notice to the local authority in terms of Section 11(3) of the Homelessness etc. (Scotland) Act 2003.**

Reasons for Decision

- 1. The rent statement for the Property was produced and showed arrears of £1634.29.**
- 2. The Applicant said that she is currently receiving rent from the Respondent's Universal Credit and that the arrears arose prior to the Respondent receiving Universal Credit and prior to him losing his job. She said that the arrears are not due to any delay in payment of benefits.**
- 3. The Applicant said that she had attempted to come to an arrangement with the Respondent with regard to clearing the level of arrears over a period of time and Mr Ranalli referred the Tribunal to a letter sent to the Respondent on 28th November 2018 which evidenced this. The Applicant said that she has attempted to engage with the Respondent on a number of occasions to get him to address the arrears but that this has been unsuccessful and that no payment has been made to reduce them.**
- 4. There was confirmation from Argyll and Bute Council that the necessary intimation had been made in terms of the Homelessness etc. (Scotland) Act 2003.**

The Tribunal determined that there was no requirement for a Hearing to be held and was satisfied that there had been arrears of rent for a period in excess of three months at a level of more than three months of the monthly rent and that there are rent arrears of more than £325 as at

today's date. The requirements of Ground 12, Schedule 3 of the 2016 Act were therefore met. The Applicant was credible and the Tribunal was satisfied with the documentary evidence.

Decision

An eviction order be granted against the Respondent in respect of the Property in terms of Section 51 (1) 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.

M MCALLISTER

**Martin J. McAllister
Legal Member/Chair**

9th August 2019