



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/22/2658

Re: Property at 11 Dalmeny Road, Hamilton, South Lanarkshire, ML3 6PP (“the Property”)

Parties:

Ms Elizabeth Lockhart, 22 Downsview Drive, Barrie, Canada (“the Applicant”)

Mr Paul McDonald, 11 Dalmeny Road, Hamilton, South Lanarkshire, ML3 6PP (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondent.

Introduction.

This Hearing concerned an Application under application for an Eviction order under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 in respect to a Private Rented Tenancy. The hearing took place by teleconference.

1. Attendance and Representation.

The Applicant was represented by Alexandra Wooley, Bannatyne, Kirkwood, France & Co, 16 Royal Exchange Square, Glasgow, G1 3AG.

The Respondent was not present. He was served personally by Sheriff Officer 13th October 2022. No written representations had been received.

2. Preliminary Matters.

The Applicant's representative said that the Applicant's last contact with the Respondent was in June 2022 when a counsellor for the Respondent called to ask about details of the tenancy. They were given but nothing further was heard by them.

The Applicant's representative referred to an application to amend in terms of Rule 14A the sum sought in the civil proceedings application. The Tribunal noted that rent due by the Respondent was £6345 as at the rent statement lodged dated 7th November 2022.

3. Case Management Discussion.

The Applicant's representative set out that the Applicant was seeking an Eviction order on the basis of Ground 12, schedule 3 of 2016 Act. The respondent she set out has been has in arrears of rent for more than 3 consecutive months and the arrears are £6345 as at 7th November 2022. The Applicant's representative said that there had been no payments of the monthly contractual rent of £425 since September 2021. It was now more than a year since a payment to the rent account had been made. She was not aware of any entitlement to benefit and she submitted that the Respondent had been sent two pre-action letters signposting him to services. These letters were lodged. aware of benefits.

The Tribunal was told the Respondent was in employment and that no one else resided in the property. The Applicant had sent several emails since June 2022 to contact the Respondent and advise him of the proceedings.

4. Reasons for Decision and Findings in Fact

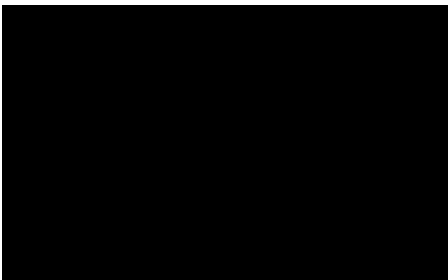
- 1. The Tribunal was satisfied that a decision could be made in the absence of the Respondent at the Hearing and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. The Respondent had been served personally by Sheriff Officer and had not provided any written representations or appeared at the Hearing.**
- 2. The Applicant sought an Order for Eviction on the grounds of rent arrears.**
- 3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property as a copy title was lodged with the Application.**
- 4. There was a PRT in place between parties dated 3rd April 2021.**
- 5. A Notice to Leave was sent to the Respondent on 21st June 2022. The Applicant has sent pre action requirement correspondence to the Respondent and a copy of same was lodged.**
- 6. The Tribunal was satisfied on balance that the Respondent was in terms of Schedule 3, Part 3 Ground 12 of the 2016 Act at the beginning of the day the Tribunal first considered the application for an Eviction Order on its merits in arrears of rent by an amount equal to or greater than the amount which would be payable as rent under the tenancy on that day**

and has been in arrears of any amount for a continuous period of up to 3 or more consecutive months.

7. As at the date of the hearing the rent arrears for the property due by the Respondent amounted to £6345. Monthly contractual rent is £425.
8. Further the Tribunal was satisfied on a balance of probabilities that the said arrears are not wholly or partly due to delay or failure of payment of the relevant benefit.
9. The Tribunal found that the requirements of Ground 12 of Schedule 3 to the Act had been met.
10. Further the Tribunal was satisfied that the rent arrears were of a substantial nature. No payment to rent had been received since September 2021.
11. The Tribunal was also satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period.
12. The Tribunal noted the Local Authority under the 2016 had been notified.
13. On the evidence available to the Tribunal the Respondent had no dependents residing with him. The Tribunal found an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020.
14. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.

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.



Legal Member/Chair

21st November 2022

Date