

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/19/0344

Property : 3 Hermitage Crescent, Dumfries DG1 7QG ("Property")

Parties:

Alexander I.S. MacMillan, PO Box 528, United Arab Emirates, Abu Dhabi ("Applicant")

Ian Craig Gordon, 3 Hermitage Crescent, Dumfries DG1 7QG ("Respondent")

**GM Thomson & Co, 35 Buccleuch Street, Dumfries DG1 2AB ("Applicant's
Representative")**

Tribunal Members:

Joan Devine (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber)
("Tribunal") determined that an order for possession should be made.**

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Private Residential Tenancy Agreement dated 7 March 2018; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 3 December 2018 ("Notice to Leave"); copy execution of service by sheriff officer certifying service of the Notice to Leave on 5 December 2018; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003, sheriff officer's execution of service certifying service of the Application on 13 March 2019; rental statement and mandate signed by the Applicant confirming the authority of the Applicant's Representative to act on his behalf.

Case Management Discussion

A case management discussion took place before the Tribunal on 4 April 2019 at Lochvale House, Georgetown Road, Dumfries DG1 4DF. The Applicant was

represented by Allan McMillan and Rebecca Reed of GM Thomson & Co. There was no appearance on behalf of the Respondent.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Private Residential Tenancy Agreement dated 7 March 2018 ("Tenancy Agreement").
2. The tenancy commenced on 9 March 2018.
3. In terms of clause 8 of the Tenancy Agreement the Respondent agreed to pay rent at the rate of £500 per month payable on the 9th of each month.
4. The Notice to Leave was served by Sheriff Officer on 5 December 2018. It stated that an application for an eviction order would not be submitted to the Tribunal before 3 January 2019.
5. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.
6. Notice of the date of the case management discussion had been given to the Respondent on 13 March 2019

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act.

In terms of section 51 of the Act, the First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

The Applicant sought recovery of possession of the Property on the basis set out in Ground 12 of schedule 3 of the Act. Ground 12 states:

"(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

(2) The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if –

(a) at the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, the tenant

- (i) is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and
 - (ii) has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, and
- (b) The Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit."

The rental statement lodged with the application showed that the rent arrears totalled £3000 which was greater than one month's rent, and that the rent had been in arrears for a continuous period of more than three consecutive months.

Decision

The Tribunal grants an order for possession of the Property.

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.

Joan Devine
Legal Member

4 April 2019

Date