



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/19/0377

Re: Property at 89 Thurston Road, Hillington, Glasgow, G52 2JQ (“the Property”)

Parties:

Mrs Margaret McAlister, Flat 3 St Georges Gate, 18 George Street, Paisley, PA1 2JB (“the Applicant”)

Mr Ludovic Erhard, 89 Thurston Road, Hillington, Glasgow, G52 2JQ (“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.

Background

This is an application under Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (the 2017 Regulations) for an Eviction Order in respect of the Property in terms of Section 16 of the Private Housing (Tenancies) (Scotland) Act 2016. (the 2016 Act) The Application is dated 24th January 2019. The Application is seeking an order for eviction under Ground 12 of Part 3, Schedule 3 of the 2016 Act.

Documents before the Tribunal

- **The Application**
- **Private Residential Tenancy Agreement dated 8th December 2017**
- **Notice to Leave dated 2nd December 2018.**
- **Schedule of rent payments.**
- **Notice under Section 11 of the Homelessness etc (Scotland) Act 2003**

The Case Management Discussion

The Applicant was present and there was no appearance from the Respondent.

Preliminary Matters

It was noted that the Applicant in emailing the Tribunal office has made reference to the respondent seeking legal advice. Mrs McAlister said that she understood that to be the case because she had received a letter from Govan Law Centre in February 2019 when they wrote to her and stated that they represented the Respondent and that they were instructed to write to her because they considered that she was harassing their client. Mrs McAlister said that she had not been harassing the Respondent but merely continuing to try and work with him regarding some sort of payment plan to deal with the arrears.

Findings in Fact

- 1. The Respondent was party to a Private Residential Tenancy Agreement dated 8th December 2017.**
- 2. The monthly rent due by the Respondent is £450.**
- 3. A valid Notice to Leave was served on the Respondent on 2nd December 2018.**
- 4. A valid notice under Section 11 of the Homelessness etc.(Scotland) Act 2003 was served on the relevant local authority.**
- 5. The Respondent is in arrears of rent amounting to £2890.**
- 6. The Respondent has made no payment of rent since January 2019.**
- 7. The Respondent's failure to pay rent is not due to a delay or failure in payment of state benefits.**

Reasons

The Applicant said that no rent had been paid since January 2019. She said that the current arrears totalled £2,890 and that the criteria of Ground 12 were met- that the Respondent is in arrears of rent by an amount equal to or greater than one month's rent and has been in arrears for a continuous period of three or more consecutive months. The Applicant stated that the rent statement

showed a persistent failure to pay the rent timeously and for the correct amount. Mrs McAlister stated that the Respondent had never indicated that his failure to pay the rent was due to any issue with regard to state benefits.

I considered that the documentation submitted with the Application supported the application for an order of eviction. I found the Applicant to be credible with what she stated in relation to arrears of rent. The case management discussion had been intimated to the respondent. He had previously instructed solicitors in relation to his tenancy but had not arranged for representation at the case management discussion. I found the terms of Ground 12 to be met and granted the eviction order.

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.


Martin J. McAllister
Legal Member/Chair

4th April 2019