

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 (Act)

Chamber Ref: FTS/HPC/EV/19/1516

Re: Property at 41 Williamsons Quay, Harbour Village, Kirkcaldy, Fife, KY1 1JS (“the Property”)

Parties:

Mr Ronald Trail, Mrs Gillian Trail, 30 Hawthorn, Mount Edgecombe Estate 2, Quail Valley, Durban, South Africa (“the Applicant”)

Miss Holly Stafford, 41 Williamsons Quay, Harbour Village, Kirkcaldy, Fife, KY1 1JS (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction and recovery of possession under Ground 12 of Schedule 3 to the Act be granted.

Background

This is an application under section 51(1) of the Act and Rule 109 of the Tribunal Procedure Rules for recovery of possession and eviction under Ground 12 of Schedule 3 to the Act.

The Tribunal had regard to the following:

1. Application received 16 May 2019;
2. Private Residential Tenancy Agreement (PRTA) commencing 3 December 2018;
3. Notice to Leave dated 13 March 2019;
4. Evidence of Service of Notice to Leave by email of 13 March 2019;
5. Schedule of rent arrears as at 3 May 2019;

6. Section 11 Notice to Local Authority dated 9 May 2019;
7. Certificate of Service of CMD Notification dated 2 July 2019.

Case Management Discussion (CMD)

The case called for a CMD on 6 August 2019. The Applicant was not present but was represented. The Respondent was not present and was not represented.

The Tribunal was satisfied that the Respondent had notification of the CMD by virtue of the Sheriff Officer's Certificate of Service. The Respondent was aware that the CMD would proceed in her absence and that the Tribunal could make a decision if it was satisfied that it had sufficient information to do so and the procedure was fair.

The Tribunal considered the documentation before it and made the following findings in fact:

1. The Parties entered in to the PRTA in respect of the Property commencing 3 December 2018;
2. The monthly rent was £550;
3. As at the date of service of the Notice to Leave the Respondent was 3 months in arrears in the sum of £1,650;
4. As at the date of submitting the application to the Tribunal the Respondent was in arrears in the sum of £2,200 which was 4 months in arrears;
5. As at the date of the CMD the Respondent was £3,700 in arrears;
6. The Respondent was currently in arrears for a period of 7 months;
7. The arrears were not due to any failure or delay in payment of a relevant benefit.

The Tribunal considered the terms of section 51(1) of the Act and Ground 12 of Schedule 3. The Respondent had been in continuous arrears over a period in excess of 3 consecutive months. The amount of the arrears was in excess of one month's rent and the arrears were not due to any delay or failure to make payment of a relevant benefit.

The Tribunal was satisfied that it had sufficient information to determine the matter and that the procedure was fair. The Tribunal granted the order for eviction and recovery of possession.

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.

AS

Legal Member/Chair

6 August 2019

Date