

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2006

Chamber Ref: FTS/HPC/EV/22/3493

Property: Flat 16, 6 Dauline Road, South Queensferry EH30 9B (“The Property”)

Parties: Capita Trust Ltd, as Trustee for Housing Fund for Scotland, 1 Hay Avenue, Edinburgh EH16 4RW (“The Applicant”)

Mr Jamie Dall, Flat 16, 6 Dauline Road, South Queensferry EH30 9BP (“The Respondent”)

Tribunal Members:

Mark Thorley (Legal)
Mrs Frances Wood (Ordinary)

Decision

The First Tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that an order for eviction be granted.

Background

1. The applicant applied to the First Tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) by application dated 22 September 2022.
2. Accompanying the application were the following documents:
 - (a) Tenancy Agreement dated the 20 August 2020
 - (b) Letter to tenant with notice to leave dated 1 February 2022
 - (c) Execution by sheriff officer of notice to leave
 - (d) Rent statement at 15 September 2022

- (e) Letter to respondent by email dated 21 September 2022
 - (f) Notice under Section 11
3. The application was received by the tribunal on 28 September 2022. Certain further information was sought thereafter.
 4. On 30 November 2022 the tribunal acknowledged receipt of the application. On 15 December 2022 certain further information was sought. That was provided.
 5. On 12 January 2023 the application was accepted for determination by the tribunal.
 6. The application was served by sheriff officers on the respondent on 14 February 2023.
 7. No written representations were received.

Case Management Discussion

1. At the case management discussion Mr Caldwell solicitor attended on behalf of the applicant. There was no appearance by or for the respondent.
2. Mr Caldwell indicated that the arrears of rent were now at £19,779.42. The respondent had paid nothing to the rent since August 2020. It was acknowledged that an extremely lenient approach had been taken by the applicant.
3. A notice to leave had been served in February 2022. Thereafter instructions were given to raise proceedings in September 2022.
4. The respondent answered an email in November 2022 and there had been an arrangement for a telephone call but the respondent had failed to engage with that.
5. In terms of his personal circumstances he was a 41 year old single man with no dependents. At the time he took on the tenancy it had been indicated that he was an HGV driver and was earning about £2,000 per month gross.

Findings in Fact

1. The parties entered into a Private Tenancy Agreement for the rental of the property at Flat 16, 6 Dauline Road, South Queensferry EH30 9BP.

2. Initially rent was due at the rate of £620 per month increasing to £657.71 per month.
3. The respondent had made no payments since August 2020. Arrears at the time of the application amounted to £15,833.16.
4. At the time of the case management discussion arrears stood at £19,779.42. The respondent was in arrears for three or more consecutive months.

Reasons for Decision

The tribunal considered the paperwork that had been provided in advance. At the time of the application rent arrears were significant. There were £15,833.16. The tenancy commenced in August 2020. Apart from two payments in August 2020 the respondent had made no further payment. It was now two and a half years since the commencement date of the tenancy. The applicant had adopted an extremely generous approach to rent arrears.

In terms of reasonableness the respondent was described as a 41 year old man, single with no dependents. At the time of the commencement of the tenancy he was an HGV driver. No reason appeared to be given as to why he had not made payment.

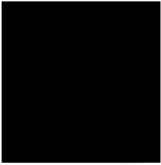
Standing the arrears had accrued now for two and a half years without a payment during that period the tribunal had no difficulty in granting an order of eviction.

Decision

To grant an order of eviction.

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: 

Date: 16 March 2022