



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 (“The Act”)

Chamber Ref: FTS/HPC/EV/23/0682

Re: Property at 1 Durward Crescent, Paisley, PA2 0LN (“the Property”)

Parties:

Mr Lee Pierce-Jones, A1908, 9 Owen Street, Manchester, M15 4TP (“the Applicant”)

Mr Sean Clark, 1 Durward Crescent, Paisley, PA2 0LN (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made an Eviction Order.

Background

The Applicant seeks an Eviction Order on the basis of ground 12 of Schedule 3 of the Act in that it is said that the Respondent is in arrears of rent of a sum equal to at least one month’s worth of rent and has been so in arrears for a period of at least three months. The Application is accompanied by a copy of the tenancy agreement, rent statements, the notice to leave relied on with proof of service, the notice under s 11 of the Homelessness (etc) (Scotland) Act 2003 and evidence of compliance with The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.

The Case Management Discussion

The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 2 June 2023. The Applicant was personally present. There was no appearance by or on behalf of the Respondent. On the basis that Sheriff Officers had competently served the Application and information about how to join the conference call on the Respondent, the Tribunal decided to proceed in the Respondent’s absence. Having considered all the information before the Tribunal and having heard from the Applicant, the Tribunal made the following findings in fact

Findings in Fact

- I. *The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondent on a Private Residential tenancy Agreement that commenced on 26 July 2022;*
- II. *The contractual monthly rent was £525.00;*
- III. *The Respondent fell into rent arrears and on 27 January 2023, the Applicant competently served a notice to leave on the Respondent in terms of ground 12 of Schedule 3 of the Act which was established at that time;*
- IV. *The Respondent has not now paid any rent since October 2022 albeit state benefits make a monthly contribution of part of the rent to the Applicant directly,*
- V. *The Applicant has complied with 11 of the Homelessness (etc) (Scotland) Act 2003 and evidence of compliance with The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;*
- VI. *As at today's date, ground 12 remains established and the arrears increase every month. The arrears of rent are now at £2,530.00;*
- VII. *There is nothing before the Tribunal that suggests any reason why the Respondent has failed to make payments of rent. Indeed, the Applicant appears to have got to great lengths to assist the Respondent by offering payment plans. The Applicant's mortgage payments are now such that it means every month he loses money for no tangible benefit. This situation is not sustainable.*

Decision

Having made the above findings in fact, the Tribunal concluded that ground 12 was established and that it was reasonable to grant 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.



Legal Member/Chair

Date: 2 June 2023