

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

Chamber Ref: FTS/HPC/EV/21/0121

Re: Property at Ground Right, 24 Forest Park Road, Dundee, DD1 5NX ("the Property")

Parties:

Mr Malcolm Daw, Mrs Susan Daw, Lisdon, Low Road, Westmuir, Kirriemuir, DD8 5LN ("the Applicant")

Mr Robert Donnelly, Mrs Amanda Donnelly, Ground Right, 24 Forest Park Road, Dundee, DD1 5NX ("the Respondent")

Tribunal Members:

Andrew McLaughlin (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that

Background

This Application called for a Case Management Discussion on 18 March 2021 by conference call at 10am. The case called alongside a related Application with reference FTS/HPC/CV/21/0120 in respect of a Payment Order. The Applicants were personally present on the call and ready to proceed with the Application. There was no appearance by or on behalf of the Respondents. Sheriff Officers had served the Application and details of how to join the conference call on the

Respondents on 12 February 2021. The Tribunal therefore considered it fair to proceed to hear the Application in their absence.

Case Management Discussion

The Applicants had produced a tenancy agreement between themselves and the Respondents in respect of the Property. They had emailed the Respondents two separate Notices to Leave (for each separate Respondent) on 7 July 2020.

The Notices to Leave founded on Grounds 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that it was claimed that the Respondents had been in rent arrears for over three consecutive months on both the date of the service of the Notice to Leave and as at today's date. The Notices to Leave correctly provided the notice periods now required by the Coronavirus (Scotland) Act 2020 and competently identified a date of 10 January 2021 before which proceedings could not be raised. The Application was then lodged on 14 January 2021.

The Applicants had also adequately complied with s11 of the Homelessness etc. (Scotland) Act 2003.

The Applicants had also adequately taken steps to identify whether there were any issue regarding state benefits that were causing difficulties with the payment of rent and had sent information to the Respondents advising them of methods of securing assistance with such matters.

Findings in Fact

Having heard from the Applicants, the Tribunal made the following findings in fact.

- I. There was a Private Residential Tenancy between the parties in respect of the Property.
- II. The Applicants were the Landlords and the Respondents were the Tenants in respect of this tenancy.
- III. The Respondents fell into rent arrears and on 7 July 2020 the Applicants competently served Notices to Leave on the Respondents.
- IV. The contractual monthly rent due was £510.00 and had owed £1,530 of rent arrears at the time of the serving of the Notices to leave and had made no rent payments at all since. At the date of service of the Notices to

leave the Respondents had been in arrears totalling at least one month's rent and for at least three months.

- V. The Respondents failed to vacate the Property and on 10 January 2021 the Applicants became entitled to raise this Application.
- VI. The terms of Grounds 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 was engaged both at the time of the serving of the Notices to Leave and as at today's date.
- VII. It was reasonable for an Eviction Order to be granted.
- VIII. The Respondents had not cooperated or communicated with the Applicants or identified any reason for the non-payment of rent.

Reasons for Decision

Having made the above findings in fact, the Tribunal granted the Application and made an 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.

18/03/21

Legal Member/Chair

Date