



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/23/0229

Re: Property at 242 Mollace Avenue, Armadale, EH48 2GE (“the Property”)

Parties:

Mr Chirag Shah, 31 Skylark Close, Bingham, NG13 8QH (“the Applicant”)

Mr Stuart Hamilton, 242 Mollace Avenue, Armadale, EH48 2GE (“the Respondent”)

Tribunal Members:

Nairn Young (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 is an application for an eviction order against the Respondent, who occupies the Property in terms of his private residential tenancy agreement with the Applicant. It called for a case management discussion (‘CMD’) at 2pm on 2 June 2023, by teleconference. The Applicant was on the line in person. The Respondent did not call in to the conference and was not represented. The commencement of the CMD was delayed by 10 minutes, to allow for any technical difficulty he may have been experiencing, but he did not get in contact.

Notice of the CMD was served on the Respondent on 26 April 2023, by sheriff officers. The Tribunal considered that the Respondent was aware of the CMD and had chosen not to attend; and that it was therefore fair to proceed in his absence.

- Findings in Fact

The application was undefended. The Tribunal considered that the following facts were relevant to its determination of the case:

1. The Respondent lets the Property from the Applicant in terms of a private residential tenancy with a start date of 8 May 2018.
2. In terms of that tenancy agreement, rent of £995 is payable on the eighth day of each month.
3. The Applicant served a notice to leave on the Respondent on 8 March 2022, stating that he intended to seek eviction on ground 12 of schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 ('the Act'), no sooner than 11 September 2022.
4. At the time of service of the notice to leave, the Applicant had been in rent arrears for 13 consecutive months.
5. The Applicant sent an email on 1 March 2022, complying with the pre-action protocol stipulated by the Scottish Ministers.
6. On 19 January 2023, the Applicant served notice on the local authority in terms of s.11 of the Homelessness etc. (Scotland) Act 2003.
7. As at the date of the CMD, the Applicant had been in rent arrears for 28 consecutive months.
8. The total arrears outstanding at the date of the CMD were £14,405.

- Reasons for Decision

9. The Tribunal considers that ground 12 of schedule 3 to the Act is made out. The Respondent has been in arrears for a very long period and the arrears are substantial. He has not offered any information that would suggest is not reasonable to grant an eviction order, against that background.

- Decision

Eviction order granted.

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

02 June 2023

Date