

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 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/21/1555

Property: 167 Oak Road, Cumbernauld, Glasgow G67 3LE (“Property”)

Parties:

Alison Harrison, 31A North Bridge Street, Bathgate, West Lothian EH48 4PJ (“Applicant”)

Harper Macleod LLP, Solicitors, 45 Gordon street, Glasgow G1 3PE (“Applicant's Representative”)

Gary Keene, 167 Oak Road, Cumbernauld, Glasgow G67 3LE (“Respondent”)

Tribunal Members:

**Joan Devine (Legal Member)
Elizabeth Currie (Ordinary Member)**

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined that an order for possession should be made.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Private Residential Tenancy Agreement dated 15 July 2020; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 (“Act”) dated 20 November 2020 (“Notice to Leave”); copy email to the Respondent dated 20 November 2020 evidencing service of the Notice to Leave on the Respondent on 20 November 2020; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 28 June 2021; statement of rent arrears and sheriff officer's execution of service certifying service of the Application on 23 July 2021.

Case Management Discussion

A case management discussion took place before the Tribunal on 25 August 2021 by teleconference. Stephen Nicolson of the Applicant's Representative was in attendance. There was no appearance on behalf of the Respondent. The Tribunal asked Mr Nicolson about compliance with the pre-action requirements. The Tribunal noted that the Mr Nicolson

had written to the Respondent on 28 June 2021. Mr Nicolson said that no reply had been received. He said that the Your Move had received a communication from the Respondent in May 2021 when he had offered to commence payment of the rent plus an additional £200 per month. That offer had been rejected and no payments had been made. As regards the arrears statement, Mr Nicolson explained that payments of £970.77 and £150 had been made at the start of the tenancy in respect of one month's rent and the deposit. These payments totalled £1,120.77 and were the only payments received. Mr Nicolson told the Tribunal that the Applicant's only source of income was from the Property and one other property owned by her. Mr Nicolson could provide no information regarding the financial position of the Respondent and whether he was in receipt of universal credit.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Private Residential Tenancy Agreement which commenced on 16 July 2020 ("Tenancy Agreement").
2. The Notice to Leave was served by email on 20 November 2020. The Respondent had agreed to communication by email in terms of the Tenancy Agreement.
3. The Notice to Leave stated that an application for an eviction order would not be submitted to the Tribunal before 23 May 2021.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 28 June 2021.
5. Notice of the date of the case management discussion had been given to the Respondent on 23 July 2021.
6. The Respondent had failed to pay the rent for the period 16 August 2020 to 15 June 2021.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act.

In terms of section 51 of the Act, the First-tier Tribunal may issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

In the Application the Applicant stated that she sought recovery of possession of the Property on the basis set out in Grounds 12 which states:

"(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months."

The Tribunal considered the statement of rent arrears and determined that the ground for eviction had been established. In the absence of any submission by the Respondent that it would not be reasonable to grant an order for eviction, and in light of the submission made by the Applicant's Representative, the Tribunal determined that it was reasonable to issue an eviction order.

Decision

The Tribunal grants an order for possession of the Property.

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.



**Joan Devine
Legal Member**

Date : 25 August 2021