

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 (“The Act”)

Chamber Ref: FTS/HPC/EV/22/1312

Re: Property at 27 Common Green, Hamilton, ML3 6BL (“the Property”)

Parties:

Glenmere Properties Ltd, 20 Greenoakhill Court, Uddingston, G71 7PQ (“the Applicant”)

Mr Carmine Scognamiglio, 27 Common Green, Hamilton, ML3 6BL (“the Respondent”)

Tribunal Members:

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

Decision

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 based on Ground 12 of Schedule 3 of the Act. The Application is accompanied by the relevant Notice to Leave and proof of it having been served; a rent statement; evidence of compliance with s 11 of the Homelessness (etc) (Scotland) Act 2003 and evidence demonstrating 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 7 October 2022. The CMD called alongside a related Application between the parties in respect of a Payment Order for rent arrears. The Applicant was represented by Mr Gildea of John Jackson & Dick Solicitors. The Respondent was also personally in attendance on the call.

The Tribunal began by considering whether either party had any preliminary matters to raise. Neither party did. The Tribunal made sure that the Respondent had received all the documentation and knew what the Tribunals were about. He did. The Respondent is a native Italian speaker and the Tribunal confirmed whether the Respondent felt comfortable conducting these CMDs in English. The Respondent confirmed that he was. The Respondent's English was such that the Tribunal could understand him and had little reason to doubt that the Respondent knew what was happening albeit that it was clear that the Respondent's first language was not English.

The Tribunal began by discussing with the Respondent what his position was in respect of both Applications. The Respondent accepted that his rent arrears were currently in the sum of £4,919.11 and that he had not paid any rent since February 2022. The Respondent is working full time as a chef and earns around £1,600.00 a month. The contractual monthly rent is £425.00. The Respondent initially made reference to having children in the house before then acknowledging when asked in detail about this that one of his children lives in Spain and another lives in Aberdeen with that child's mother. The Respondent's position seemed to be that he had stopped paying any rent because the Applicant hadn't agreed to the vague proposals which the Respondent had sought to impose on the Applicant regarding the terms of further rent payments.

Having heard in detail from both sides, having considered the Application and having adjourned to consider matters, 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;*
- II. *The tenancy commenced on 27 November 2018;*
- III. *The contractual monthly rent was £425.00;*
- IV. *The Respondent fell into rent arrears;*
- V. *The Applicant competently completed and served a Notice to Leave on the Respondent on 29 July 2022;*

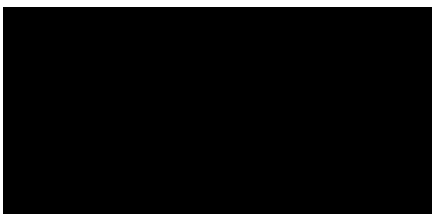
- VI. *At that time the Respondent had arrears of rent of £2,375.00 had been in arrears for a period of well in excess of three months;*
- VII. *Ground 12 of Schedule 3 of the Act was established as at the date of service of that Notice to Leave;*
- VIII. *As at today's date, the Respondent is in arrears of rent in the sum of £4,919.11;*
- IX. *Ground 12 is established as at today's date;*
- X. *The Applicant has complied with The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;*
- XI. *The Applicant has complied with S 11 of the Homelessness (etc) (Scotland) Act 2003;*
- XII. *It is reasonable for an Eviction Order to be made.*

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.



7 October 2022

Legal Member/Chair

Date