



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) Act 2016

Chamber Ref: FTS/HPC/EV/22/3443

Re: Property at 57 Russell Square, Arbroath, Angus, DD11 3DQ (“the Property”)

Parties:

Mr Alan Haggart, 28 Chapman Drive, Carnoustie, Angus, DD7 6DX (“the Applicant”)

Miss Caitlin Campbell, 57 Russell Square, Arbroath, Angus, DD11 3DQ (“the Respondent”)

Tribunal Members:

David Preston (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for eviction be granted in favour of the applicant.

Background:

1. By application dated 20 September 2022 the applicant applied for an order for eviction and possession of the property on the basis of Ground 12 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.
2. The papers before the tribunal comprised: Short Assured Tenancy Agreement dated 23 April 2020 together with an unsigned Private Rented Tenancy Agreement effective from 1 May 2020; rent statement covering the period May to October 2022 showing arrears of rent to that date of £1968.98; Notice to Leave dated 10 August 2022; email dated 10 August 2022 from applicant to respondent attaching Notice to Leave; photograph of hand delivery of Notice to Leave; pre-action protocol letters to tenant dated 20th June, 14th and 26 July, all 2022; Notice under section 11 of the Homelessness etc (Scotland) Act 2003; Sheriff Officer’s Certificate of

Service dated 9 February 2023 confirming service of a full set of papers on the respondent.

3. By Decision dated 6 January 2023, a Convener of HPC having delegated power for the purpose, referred the application under rule 9 of the First-tier Tribunal for Scotland Housing and Property Chamber Regulations 2017 to the tribunal. A letter of Intimation dated 8 February 2023, with Notice of the Case Management Discussion (CMD) to be held by telephone on 14 March 2023 at 14:00 together with the case papers were served on the respondent by Sheriff Officers on 9 February 2023. The tribunal was provided with a copy of the Sheriff Officer's Certificate of Citation of that date.

Case Management Discussion

4. The applicant attended on his own behalf; the respondent neither appeared nor was represented.
5. Notice of the CMD together with a full set papers relating to the application having been served on the respondent, the tribunal was satisfied that due notice had been given to her to which she had voluntarily waived her right to be present or represented.
6. The applicant advised that he had not had any communication from the respondent in the past six months apart from a text message in December. No further rent had been paid by the respondent although her father, as guarantor, had made some payments of rent until December 2022. The total arrears to date amount to £3495.95.
7. The applicant confirmed that he had sent a number of pre-action protocol letters to the respondent to which there had been no response and no effort made to make payments towards the arrears. He confirmed that the initial tenancy agreement had been prepared on a Short Assured Tenancy form. When he realised that this form was no longer appropriate, he substituted it with a Private Residential Tenancy Agreement. He also confirmed that he had agreed to release the joint tenant under the original agreement and the respondent had continued as a sole tenant.
8. The applicant advised that so far as he was aware the respondent may have a son of approximately six or seven years old. She has referred to being in work but he has no evidence of this. He has not been advised of any housing benefits which might have applied in relation to the tenancy. Following service of the Notice under section 11 to Angus Council he had received a request for a reference from Angus Home Finder to which he had responded on the understanding that the respondent may have made application for housing of which he has no knowledge.

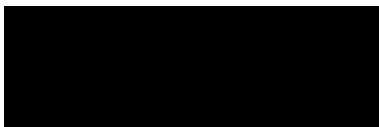
Reasons for Decision:

9. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, it was able to determine the application at the CMD.

10. The tribunal accepted the information in the file and as provided by the applicant and was satisfied that all necessary notices and paperwork had been duly served and efforts have been made to provide assistance and advice to the respondent in respect of the arrears to which no response had been made. The tribunal was also satisfied that in all the circumstances it was reasonable to grant the order for eviction. Accordingly, the tribunal determined to issue the order for eviction.

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.



14 March 2023