

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/19/1791

Re: Property at 5C Beechwood Drive, Coatbridge, ML5 4RF (“the Property”)

Parties:

Mr David Callanan, 82 Costa Na Mara, Oranmore, Galway, Ireland (“the Applicant”)

Ms Mary Farrell, 5C Beechwood Drive, Coatbridge, ML5 4RF (“the Respondent”)

Tribunal Member:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted without a hearing and issued an Eviction Order against the Respondent.

Background

By application, received by the Tribunal on 10 June 2019, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 12 of Schedule 3 to the 2016 Act.

The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties commencing on 29 November 2018 at a monthly rent of £400, a Notice to Leave dated 30 April 2019, advising the Respondent that the application to the Tribunal for an Eviction Order would not be made before 28 May 2019, and a Rent Statement showing arrears as at 29 May 2019 of £466.80.

In the application, the Applicant stated that, since the commencement of the tenancy, the Respondent had only paid £322.20 per month, this being the amount of her housing benefit. She had never paid the balance of £77.80 per month, so the rent had always been in arrears.

On 9 July 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 30 July 2019. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held at Glasgow Tribunals Centre, 20 York Street, Glasgow on the morning of 14 August 2019. The Applicant was represented by Mrs Emma Park of ProBrook Properties, Glasgow. The Respondent was not present or represented. The Applicant's representative advised the Tribunal that the arrears of rent now stood at £622.20, so exceeded one month's rent and asked the Tribunal to issue an Eviction Order without a hearing.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states that the Tribunal may do anything at a Case Management Discussion which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it would decide the application without a hearing.

Section 51 of the 2016 Act states that the Tribunal is to 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 to the 2016 Act applies.

Ground 12 of Schedule 3 to the 2016 Act provides that it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months and that the Tribunal must find that Ground 12 applies if, at the beginning of the day on which the Tribunal first considers the application for an Eviction Order on its merits, the tenant is in arrears of rent by an amount equal to or greater than one month's rent and has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months and the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.

The Tribunal accepted the evidence on behalf of the Applicant that the monthly payments of rent had always been short, as the Respondent had paid nothing over and above the amount of her housing benefit, so the rent had been in arrears for more than three consecutive months prior to the date of the Case Management Discussion and that the present arrears exceeded one month's rent. There was no evidence to suggest there had been a failure or delay in payment of a relevant benefit to the Respondent, so the requirements of Ground 12 had been met and the Tribunal was bound to grant an Eviction Order against the Respondent.

Decision

The Tribunal determined that the application should be granted without a hearing and issued an Eviction Order against the Respondent.

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.

G Clark

Legal Member/Chair

14 August 2019

Date