



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/23/2500

Re: Property at 10B Bank Street, Penicuik, EH26 9BG (“the Property”)

Parties:

Mr Nick Barns, 83 Flat 6 Easter Road, Edinburgh, EH7 9PW (“the Applicant”)

Miss Morgan Lee, Mr Ahmet Karayaka, 10B Bank Street, Penicuik, EH26 9BG; UNKNOWN, UNKNOWN (“the Respondents”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 26th July 2023. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on grounds 12 and 12A of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 24th October 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 30th November 2023 at 10am by teleconferencing. The letter also requested all written representations be submitted by 14th November 2023.
3. The case is conjoined with FTS/HPC/CV/23/2502.

4. On 7th November 2023, the Applicant's representative emailed the Housing and Property Chamber requested the amount sought in the conjoined case be increased to £7857.31. This was notified to the Respondents by the Housing and Property Chamber by letter.
5. On 25th October 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the First Named Respondent, Ms Morgan Lee, personally. This was evidenced by Certificate of Intimation dated 25th October 2023. Service was not able to be effected upon the Second Named Respondent. Service by Advertisement was undertaken upon both of the Respondents from 24th October 2023.

The Case Management Discussion

6. A CMD was held on 30th November 2023 at 10am by teleconferencing. The Applicant not present but was represented by Ms Linda Booth, Associate, Milards. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondents did not make any representations in advance of the CMD.
7. Ms Booth told the Tribunal that there has been sporadic contact from Mr Karayaka. Ms Lee was communicating with Ms Booth's office from the beginning of the year until around March 2023. It was hoped that there would be able to be a resolution. However, contact stopped in March 2023. Since then, there has been reports from neighbours of antisocial behaviour in the form of noisy dogs. On 18th November 2023, there was an incident where the front door was broken down. An email was received from Ms Lee stating that the door was broken down as an attack on the Respondents. There was then an email on 21st November 2023 from Ms Lee stating that she would address the arrears once she has been allocated another property. Ms Booth understood this to mean that Ms Lee is looking to be allocated a property by her local authority.
8. Ms Booth said that she has been emailing the Respondents. This is the preferred method of communication in the lease. She noted that Ms Lee has changed her email address twice this year. Ms Booth now has her current email address. There has been no response to Ms Booth's emails.
9. Ms Booth said that there have been payments from the DWP. Ms Booth said that it took some time to investigate these payments as they were not covering the rent charge. She was able to find out that these payment were for payments towards the arrears only.
10. Ms Booth said that there is an infant in the Property who was born this year. There are no known disabilities of the Respondents. She does not consider that

Mr Karayaka has moved out as there has been no formal notice of his vacating the Property. At the time of the door been broken down Ms Lee had indicated that the attack was against both of them.

11. Ms Booth said that the Applicant has been put under financial pressure as a result of the missed rent payments. The Property is mortgaged.
12. The Tribunal was satisfied that it was appropriate to grant an order for eviction against both Respondents. There was no issues of reasonableness to prevent an order being granted.

Findings and reason for decision

13. A Private Rented Tenancy Agreement commenced 2nd June 2022.
14. The Respondents have persistently failed to pay their rent charge of £680 per month. The rent payments are due to be paid on 1st day of each month.
15. Arrears accrued to more than six months rent payments at the date of application and at the date of the CMD.
16. Pre action requirement letters were sent to the Respondents by email. On 14th December 2023 and 2nd February 2023.
17. There are no known outstanding Universal Credit issues.
18. The Respondents have made no submissions prior to the CMD.
19. There has been no formal notice that Mr Karayaka has left the Property.
20. The arrears sought in the conjoined case are £7857.31. The Tribunal was satisfied that the amount was beyond 6 months rent arrears.
21. The ongoing increasing rent arrears are causing financial pressure on the Applicant as the Property is mortgaged.
22. There are no issues of reasonableness preventing an order for eviction being granted.

Decision

23. The Tribunal found that ground 12A has been established and granted an order in favour of the Applicant.

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.



30th November 2023

Legal Member/Chair

Date