



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/23/3704

Property : 36A High Street, Galashiels TD1 1SE ("Property")

Parties:

Glyn Thomas, 1/12 Couperfield, Edinburgh EH6 6HG ("Applicant")

TC Young solicitors, 7 West George Street, Glasgow G2 1BA ("Applicant's Representative")

Sean Sherrat, 36A High Street, Galashiels TD1 1SE ("Respondent")

Tribunal Members:

Joan Devine (Legal Member) and Melanie Booth (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined that an order for possession of the Property 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 between the Applicant and the Respondent dated 4 October 2022 which commenced on 4 October 2022; Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 18 August 2023 ("Notice to Leave") in which the ground for eviction was ground 12A; email to the Respondent attaching the Notice to Leave dated 18 August 2023; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 13 November 2023; communication to the Respondent regarding rent arrears dated 5 June 2023 and rent statement. The Tribunal had sight of a certificate of service by sheriff officer evidencing service of the Application on the Respondent on 8 January 2024.

Case Management Discussion

A Case Management Discussion took place before the Tribunal on 23 February 2024 by teleconference. Nicola Brechany of the Applicant's Representative was in attendance. There was no appearance by the Respondent.

Ms Brechany told the Tribunal that the rent arrears were now £4,248. She said that the Respondent had blocked the phone number of the Applicant which meant the Applicant now has no way to contact the Respondent. She said that the Applicant had been contacted by Scottish Borders Council who had said the Respondent had vacated the Property. She said the Applicant lives in Saudi Arabia so cannot visit the Property to check whether it continues to be occupied. Ms Brechany said that the Applicant understood that the Respondent is 21 years old and lived in the Property with his partner and child. The Applicant had no information regarding the Respondent's employment or income.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement dated 4 October 2022 which commenced on 4 October 2022 ("Tenancy Agreement").
2. The Notice to Leave was served by email on 18 August 2023.
3. At the date of service of the Notice to Leave the cumulative amount of rent arrears equated to or exceeded an amount that is the equivalent of 6 months' rent under the Tenancy Agreement.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 13 November 2023.

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 they sought recovery of possession of the Property on the basis set out in Ground 12A which states :

- (1) *It is an eviction ground that the tenant has substantial rent arrears.*

(2) *The First-tier Tribunal may find that the ground named in paragraph 1 applies if –*

(a) the tenant has accrued rent arrears under the tenancy agreement in respect of one or more periods,

(b) the cumulative amount of those rent arrears equates to, or exceeds, an amount that is the equivalent of 6 months' rent under the tenancy agreement when notice to leave is given to the tenant on this ground in accordance with section 52(3), and

(c) the tribunal is satisfied that it is reasonable to issue an eviction order

The Tribunal considered the statement of rent arrears provided 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.

Legal Member

Joan Devine

Date: 23 February 2024