



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/19/2428

Re: Property at 3 Boswell Drive, Blantyre, G72 0BJ (“the Property”)

Parties:

Mr Steven Magill, 30 Marlborough Heights, Belfast, BT6 9QR (“the Applicant”)

Miss Natasha Connor, 3 Boswell Drive, Blantyre, G72 0BJ (“the Respondent”)

Tribunal Members:

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 5 August 2019, the Applicant sought an Eviction Order against the Respondent under Section 51 of The Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”). The Grounds relied on were Grounds 11 and 12 of Schedule 3 to the Act

The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 23 November 2018 at a rent of £450 per month, a Rent Statement showing arrears as at 5 August 2019 of £1,800 and a Notice to Leave dated 3 July 2019, advising the Respondent that the application to the Tribunal would not be made before 1 August 2019. The Applicant stated in the application that the Respondent was in breach of a term of the Tenancy Agreement in that the Respondent’s mother was understood to be living at the Property. The rent was also more than three months in arrears, no payments having been made since 23 November 2018.

On 7 August 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 27 August 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 afternoon of 10 September 2019. The Applicant was represented by Wayne Burrows of Penny Lane Homes, Shawlands, Glasgow. The Respondent was not present or represented. The Applicant's representative confirmed that no payments had been made since the date of the application and asked the Tribunal to issue the Eviction Order without a Hearing.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides 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 determine the application without a Hearing.

Section 51 of the Act states that the Tribunal is to issue an Eviction Order against the tenant under a private residential tenancy if, on application by the landlord, it is satisfied that one of the Eviction Grounds named in Schedule 3 to the Act applies.

Ground 12 of Schedule 3 to the Act provides that it is an Eviction Ground that the tenant has been in 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 the amount which would be payable as one month's rent under the tenancy on that day 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 is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.

The Tribunal was satisfied that the arrears currently stood at more than one month's rent and that no rental payments had been made since 23 November 2018. No evidence had been provided to suggest that the Respondent's being in arrears was wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. Accordingly, the requirements of Ground 12 of Schedule 3 to the Act had been met and the Tribunal was bound to issue an Eviction Order against the Respondent.

Having granted the application under Ground 12, it was not necessary for the Tribunal to consider further the application under Ground 11 of Schedule 3 to the Act.

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

10 September 2019

Date