



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.

Reference number: FTS/HPC/EV/19/3065

Order granted on 29 January 2020 in absence of the Respondent

Property: 65 Montrose Street, Brechin, DD9 7BZ ("The Property")

Parties:

George Mountcastle, residing at 13 Devon Place, Edinburgh, EH12 5HN ("the Applicant")

Graeme McIntosh, 65 Montrose Street, Brechin, DD9 7BZ ("the Respondent")

Tribunal Members:

Paul Doyle (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") makes an order for possession of the Property in terms of section 51 of the Private Housing (Tenancies) (Scotland) Act 2016.

Background

The Applicant sought recovery of possession of the Property in terms of section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The Applicant lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a rental statement, a notice to leave dated 20 June 2019 with proof that the tenant received the notice to leave on 20 June 2019. A copy title sheet was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place before the Tribunal at 2.00pm on 29 January 2020 at Caledonia house, Dundee. The Applicant was present and was unrepresented. The respondent did not appear and was not represented. Intimation of the time date and place of this case management discussion was given to the respondent by letter dated 27 December 2019.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a private residential Tenancy Agreement for the Property dated 27 December 2018.
2. The period of the Lease was from 28 December 2018. The initial rent in terms of the Tenancy Agreement was £500 per month.
3. The Tenancy Agreement set out the grounds on which the Landlord could seek recovery of possession of the Property. A notice to leave the property was served on the respondent by email on 20 June 2019 bringing the tenancy agreement to an end on 14 September 2019 and telling the respondent that the applicant can apply for an eviction order no sooner than 15 September 2019.
4. An Application was made to the Tribunal on 27 September 2019. The Applicant sought recovery of possession of the Property in terms of section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 relying on ground 12 of schedule 3 to the 2016 Act because the appellant had allowed arrears of rent amounting to more than three months rental to accrue.
5. The respondent has only made six payments of monthly rent since taking entry in December 2018. He did not pay rental between January 2019 and May 2019. He has not paid any rent since July 2019. At the date of application there were rent arrears of £2050. At today's date there are arrears of rental totaling £4,550.
6. At the date of service of the notice to leave and at the date of making this Application there was at least 3 months' rent lawfully due in arrears. The basis for possession set out in ground 12 of schedule 3 to the 2016 Act are established.
7. Notice of the date of this hearing was served on the Respondent on 27 December 2019. The respondent does not resist this application.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 51(1) of the 2016 Act. At the date of application three months rent was due. At today's date more than three months rent is due. The basis for possession set out in ground 12 of schedule 3 to the 2016 Act is established. Ground 12 is a "mandatory" ground. For these reasons, the Tribunal determined to grant an Order for possession. The notice to leave has been served on the Respondent and has provided the requisite period of notice. This Application has been made within a period of 6 months after the service of the notice to leave.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession.

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.

Paul Doyle

Legal Member

29 January 2020