



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/19/3775

Re: Property at 12 Clermiston Grove, Edinburgh, EH4 7DE (“the Property”)

Parties:

Ms Jane McManus, c/o CMC Property, 6B New Mart Road, Edinburgh, EH14 1RL (“the Applicant”)

Mr Daryl Smith, Ms Zoe Claire Kennedy Ross, 12 Clermiston Grove, Edinburgh, EH4 7DE; 12 Clermiston Grove, Edinburgh, EH4 7DE (“the Respondents”)

Tribunal Members:

Richard Mill (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an Order for Eviction of the Respondents from the Property at 12 Clermiston Grove Edinburgh EH4 7DE.

The Hearing

The Applicant was represented by Mr S Runciman of Messrs Gilson Gray LLP. The Respondents appeared personally.

The Respondents each acknowledged receipt of the papers in both the Eviction and Payment actions which had been served by Sheriff Officers. They also confirmed receipt of the amendment application increasing the sum sought by the Applicant in the Payment action.

The Respondents accepted fully that the rent outstanding claimed by the Applicant is due and outstanding. Reference was made to the fact the Respondents had separated for a period in 2019 causing financial hardship. A

Housing Benefit application was made by Ms Ross which is in payment. There are no arrears applicable which have any relevance to the non payment of rent. Mr Runciman asked that both the Eviction Order and the Payment Order be made given the unchallenged facts.

Facts

1. The parties entered into a Private Residential Tenancy in respect of the Property at 12 Clermiston Grove Edinburgh EH4 7DE which commenced on 12 January 2018. The rent was specified at £725 per month.
2. By July 2019 the Respondents were not making full payment of rent. No rental payments have been made since August 2019.
3. The Respondents were served with lawful Notice to Leave on 9 October 2019. They have remained in the property despite not making rental payments.
4. At the time of application being made £3,150 of rent was outstanding. In advance of the hearing and more than 14 days before it an amendment application was received on behalf of the Applicant to increase the sum sought to £4,600 reflecting the higher rent now outstanding.

Reasons

The Applicant has established that the Respondents are in rent arrears. The Respondents are in breach of their obligations under the relevant lease. The Ground for eviction under Ground 12 (2) of schedule 3 to the 2016 Act is established. This is a mandatory ground. The Applicant is entitled to vacant possession of the Property. The Applicant is also entitled to recover the rent outstanding at the time of the amendment application being made in the sum of £4,600 from the Respondents.

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/Chair

31 January 2020

Date