



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/22/0191

Re: Property at 13c Ruskin Place, Mayfield, Dalkeith, EH22 5QJ (“the Property”)

Parties:

Denlo Property Limited, 4 The Hawthorns, Gullane, EH31 2DZ (“the Applicant”)

Mr Dylan Barns and Mr Christopher Kane, 13c Ruskin Place, Mayfield, EH22 5QJ (“the Respondents”)

Tribunal Members:

Gillian Buchanan (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondents)

At the Case Management Discussion (“CMD”), which took place by telephone conference on 20 April 2022, the Applicant was represented by Ms Linda Booth of Milards Limited, 5 Wemyss Place, Edinburgh, EH3 6DH.

The Respondents were neither present nor represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) had been satisfied relative to the Respondents having received notice of the CMD and determined to proceed in the absence of the Respondents in terms of Rule 29.

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

The following facts were noted by the Tribunal:-

- i. That the Applicant is the heritable proprietor of the Property.
- ii. That on 3 and 12 November 2020 the Applicant leased the Property to the Respondents in terms of a Private Residential Tenancy Agreement (“the Tenancy Agreement”).

- iii. That in terms of the Tenancy Agreement the tenancy commenced on 12 November 2020.
- iv. That the rent payable by the Respondents to the Applicant in terms of the Tenancy Agreement is £685 per calendar month.
- v. That on 12 July 2021, on the instructions of the Applicant, Milards Limited served on the Respondents by email Notices to Leave requiring the Respondents removal from the Property on or before 15 January 2022.

The CMD

At the CMD Ms Booth for the Applicant made the following representations:-

- i. That the Respondents remain in occupation of the Property.
- ii. That the rent arrears balance is £4,574.08.
- iii. That in respect of the First Respondent, Dylan Barns, payments have been made from Universal Credit and other benefit claimed by him. In particular the Applicant has received the following recent payments:-
 - 19.11.2021 £25.73
 - 24.11.2021 £412.00
 - 17.12.2021 £25.73
 - 24.2.2022 £412.00
 - 11.3.2022 £25.73
 - 24.3.2022 £412.00
 - 8.4.2022 £51.46

Payments stopped between December 2021 and February 2022 due but were reinstated on 24 February 2022.

- iv. That in Respect of the Second Respondent, Christopher Kane, no payments have been received. On 2 occasions a Direct Payment application has been submitted online in anticipation that the Second Respondent might also be in receipt of Universal Credit but both applications were declined.
- v. That there have been rare communications from the First Respondent, in particular in response to notification of the eviction application the First Respondent contacted Milards Limited and asked when an eviction order would be granted. The Second Respondent has not engaged at all.
- vi. That the First Respondent is not working. He is believed to be a carer but no details are known. The Second Respondent's situation is unknown.
- vii. That the Respondents have no dependents living with them in the Property.
- viii. That both Respondents have changed their telephone numbers.
- ix. That a recent intimation of an intention to inspect of the Property was declined by the First respondent and has been rescheduled.
- x. That the Applicant does not believe the rent arrears to have accrued due to COVID related reasons.
- xi. That the Applicant cannot sustain the tenancy given that the rent is not covered by the benefits payments being received and therefore seeks an eviction order.

Findings in Fact

- i. That the Applicant is the heritable proprietor of the Property.
- ii. That on 3 and 12 November 2020 the Applicant leased the Property to the Respondents in terms of a Private Residential Tenancy Agreement ("the Tenancy Agreement").

- iii. That in terms of the Tenancy Agreement the tenancy commenced on 12 November 2020.
- iv. That the rent payable by the Respondents to the Applicant in terms of the Tenancy Agreement is £685 per calendar month.
- v. That on 12 July 2021, on the instructions of the Applicant, Milards Limited served on the Respondents by email Notices to Leave requiring the Respondents removal from the Property on or before 15 January 2022
- vi. That the Respondents remain in occupation of the Property.
- vii. That notice of these proceedings has been given by Milards Limited to Midlothian Council in terms of Section 11 of the Homelessness etc (Scotland) Act 2003.
- viii. That the Applicant has complied with the Rent Arrears Pre-Action Requirements (Coronavirus)(Scotland) Regulations 2020.
- ix. That the rent arrears are £4,574.08 and continue to increase month on month given that the benefits payments received are insufficient to cover the rent due in terms of the Tenancy Agreement.
- x. That the Respondents have offered no proposals to clear the rent arrears or meet the ongoing monthly shortfall.
- xi. That the Respondents have failed to properly engage with the Applicant, Milards Limited and the Tribunal.
- xii. It is reasonable than an eviction order be granted in favour of the Applicant.

Reasons for Decision

In the absence of the Respondents, the factual background was not in dispute.

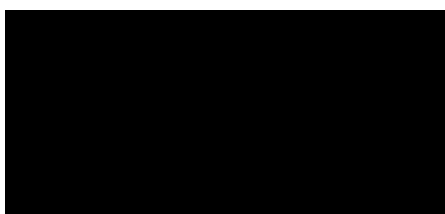
The Tribunal considered whether or not it would be reasonable to grant an eviction order and determined that it would be reasonable to grant an eviction order in the circumstances.

Decision

The Tribunal granted an eviction 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.



Legal Member/Chair

20 April 2022
Date