



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/18/3003

Property : Flat F, 271 Bank Street, Coatbridge, ML5 1HT (“the Property”)

Parties:

Rav's Properties Limited, 2 Alpine Grove, Uddingston, Glasgow G71 6DA (“the Applicant”)

Daryn William Murray (“the Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for possession should not be made.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Private Residential Tenancy Agreement dated 2 April 2018; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 (the "Act") dated 2 October 2018 (the "Notice to Leave"); copy email dated 2 October 2018 from the Applicant to the Respondent attaching the Notice to Leave; Notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003, sheriff officer's execution of service dated 20 December 2018 and rental statement.

Case Management Discussion

A case management discussion took place before the Tribunal on 15 January 2019 at the Glasgow Tribunals Centre, 20 York Street, Glasgow. Havinder Banga attended on behalf of the Applicant. There was no appearance on behalf of the Respondent.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Private Residential Tenancy Agreement dated 2 April 2018 (the "Tenancy Agreement").
2. The tenancy commenced on 2 April 2018.
3. In terms of clause 4 of the Tenancy Agreement the parties had agreed that all communications which may or must be made under the Act and in relation to the Tenancy Agreement would be made in writing using the email addresses set out in clauses 2,3 or 1.
4. The Notice to Leave was sent by email to the Respondent on 2 October 2018. It stated that an application for an eviction order would not be submitted to the Tribunal before 2 November 2018.
5. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.
6. Notice of the date of the hearing had been given to the Respondent on 20 December 2018.

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 is to 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.

The Applicant sought recovery of possession of the Property on the basis set out in Ground 12 of schedule 3 of the Act. Ground 12 states:

"(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

(2) The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if –

(a) at the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, the tenant

- (i) 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
 - (ii) 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
- (b) The Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit."

The rental statement lodged with the application showed that the rent arrears totalled £1,930, which was greater than one month's rent, and that the rent had been in arrears for a continuous period of more than three consecutive months.

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.

Joan Devine

Joan Devine
Legal Member/Chair

15 January 2019
Date