



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/19/2513

Re: Property at 3/3 490 Argyle Street, Glasgow, G2 8AJ (“the Property”)

Parties:

Mrs Amy Xunyun McInnes, 6 Lochview Place, Glasgow, G33 1QB (“the Applicant”)

Mr Florin-Adrian Siscu, Mrs Slav Aurelia, 3/3 490 Argyle Street, Glasgow, G2 8AJ (“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 12 August 2019, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) Scotland Act 2016 (“the 2016 Act”). The Ground relied on was Ground 12 of Schedule 3 to the 2016 Act. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 2 February 2019 at a rent of £1,000 per month, a Rent Statement showing arrears as at 2 July 2019 of £2,600 and a Notice to Leave dated 12 July 2019, confirming that an application would not be submitted to the Tribunal for an Eviction Order before 10 August 2019. The Applicant also provided the Tribunal with a screenshot of a text message dated 13 July 2019 from the Respondent which confirmed receipt of the Notice to Leave

On 4 October 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 25 October 2019. The Respondent did not make any written

representations to the Tribunal. The Applicant provided the Tribunal with an updated Rent Statement showing arrears as at 2 September 2019 of £4,600. The Rent Statement indicated that the rent had been in arrears continuously since 2 March 2019.

Case Management Discussion

A Case Management Discussion was held at Glasgow Tribunals Centre on the afternoon of 7 November 2019. The Applicant attended and asked the Tribunal to grant the application without a Hearing. The Respondent was not present or represented.

Findings in Fact

1. The Parties entered into a Private Residential Tenancy Agreement which commenced on 2 February 2019.
2. The rent payable is £1,000 per month, payable in advance on the second day of each month.
3. The rent has been in arrears continuously since 2 March 2019.
4. The rent arrears as at the date of the Case Management Discussion stand at £4,600.
5. The Applicant served a Notice to Leave on the Respondent, dated 12 July 2019.

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 2016 Act states that the 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 to the Act applies. Ground 12 of Schedule 3 to the 2016 Act provides that it is an Eviction Ground that the tenant has been in rent 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 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 Tribunal was satisfied that the arrears exceeded one month's rent, that the rent had been in arrears for a continuous period of more than three months prior to the date of the Case Management Discussion and there was no evidence before it to suggest that the Respondent's being in arrears of rent over that period 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 2016 Act had been met and the Tribunal was bound to issue an Eviction Order against the Respondent.

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.

George Clark

Legal Member/Chair

7 November 2019

Date