



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 (“the Act”)

Chamber Ref: FTS/HPC/EV/19/1047

Re: Property at 22 Lawrence Street, Broughty Ferry, Dundee, DD5 1ET (“the Property”)

Parties:

Mrs Hazel Penny, Rear 1/1, 329 Brook Street, Broughty Ferry, Dundee, DD5 2DS (“the Applicant”)

Mr Craig Kelly, 22 Lawrence Street, Broughty Ferry, Dundee, DD5 1ET (“the Respondent”)

Tribunal Members:

Ewan Miller (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that Ground 12 of Schedule 3 of the Act had been established and accordingly the Tribunal was obliged to grant an Order for Possession of the Property in favour of the Applicant against the Respondent under s51 of the Act

Background

The Applicant was the owner of the Property and had let the Property to the Respondent. The Applicant alleged that the Respondent had fallen in to rent arrears and sought an order for possession against the Respondent from the Tribunal.

The Tribunal had before it:-

- A copy of the Application to the Tribunal dated 3 April 2019;
- A copy of the lease between the parties;

- A copy of a rental arrears statement;
- Copies of letters from the agent notifying the Respondent of the arrears;
- Copy Notice to Leave dated 1 February 2019 and accompanying Sheriff Officers Execution of Service;
- S11 Homelessness Notice to Dundee City Council;

Case Management Discussion (CMD)

The Tribunal held a CMD at Dundee Carers Centre, Seagate, Dundee at 2pm on 2 July 2019. The Applicant's husband was present as was Mr Smith of their letting agency. The Respondent was present and represented himself.

Findings in Fact

The Tribunal found the following facts to be established:-

- The Applicant was the owner of the Property;
- The Applicant had let the Property to the Respondent by a Private Residential Tenancy with effect from 8 June 2018;
- The monthly rental was £400 per calendar month;
- The Respondent had ceased paying rent in January 2019 and had not made any payments since.
- That for more than 3 months the Respondent had continuously been in rent arrears and that as at the date of the CMD more than one months rent was in arrears

Reasons for the Decision

The Tribunal based its decision on the paperwork before it and the submissions of the parties. The Respondent advised the Tribunal that he had been made redundant by his employer in late 2018. To make ends meet he had taken some payday loans, which he had since repaid. Whilst he submitted that he did now have a job, he accepted that he had not paid the rent since January and that the sums sought were due. He confirmed that whilst he had been on benefits, there had been no issues in obtaining payment and that, in any event, he was now employed again and was receiving no more benefits.

The Tribunal was of the view that it must grant an eviction order here. The Respondent confirmed at the CMD that, as at that date there was more than one months rent outstanding and that there had been continuous arrears of rent for more than 3 months. He also confirmed there had been no difficulties or delay in the payment of any benefit. Accordingly the mandatory test set out in Ground 12 of Schedule 3 of the Act had been satisfied and that the Applicant was entitled to an order for possession in terms of s51 of the Act.

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.

Ewan Miller
Legal Member/Chair

Date

2 / 7 / 19