



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

Reference number: FTS/HPC/EV/20/1061

Order granted on 19 August 2020 in absence of the Respondent

Property: 3 Watson Place, Anstruther, Fife, KY10 3ED

Parties:

Dr Sarah Sneddon, residing at 47 Pittenween Road, Anstruther, Fife KY10 3DT (“the Applicant”)

and

Barry Knox, residing at 3 Watson Place, Anstruther, Fife, KY10 3ED (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 12 of part 3 of schedule 3 to the 2016 Act.

Background

The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to leave, served on 20 February 2020, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant is the joint heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 10am on 19 August 2020. The Applicant was present (by telephone). The hearing was delayed until 10.12am to allow sufficient time for the respondent to participate, but there was no appearance by or on behalf of the Respondent.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a private residential tenancy Agreement for the Property dated 17 October 2019. The respondent took entry to the property on the same day.
2. The rent in terms of the Tenancy Agreement was £330 per month.
3. The respondent has been in arrears of rental since December 2019. He has not paid rent since January 2020. On the date the application was submitted there were arrears of rent totalling £680, which is more than 2 months' rent. At today's date there are still arrears of rental totalling £1,670.00, which is more than 5 months rent.
4. On 20 February 2020 the applicant served a notice to leave on the respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 10 April 2020, the applicant applied to the tribunal for a repossession order.
5. The Applicant seeks recovery of possession of the Property in terms Ground 12 of part 3 of schedule 3 to the 2016 Act. The rental was two months in arrears at the date the application was submitted. Rental is now 5 months in arrears.
6. There is no suggestion that the respondent is in arrears of rent either wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. It is not argued that it is unreasonable to grant an order for repossession of the property. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.
7. The respondent offers no resistance to this application. Notice of today's hearing was served on the respondent by Sheriff Officers on 10 July 2020.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in in terms Ground 12 of part 3 of schedule 3 to the 2016 Act is

established. The respondent offers no defence to the application. For these reasons, the Tribunal determined to grant an Order for possession.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 12 of part 3 of schedule 3 to the 2016 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.

Paul Doyle

19 August 2020

Legal Member