



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/22/4402

Re: Property at 15D James Street, Ayr, KA8 0DJ (“the Property”)

Parties:

Mr Thomas Jackson, 15 Fernley Road, Birkdale, PR8 5AU (“the Applicant”)

Mr Graeme William Wilson, 15D James Street, Ayr, KA8 0DJ (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction be granted against the respondent

Introduction

This application seeks an eviction order and is under rule 109 and section 51 of the Private Housing (Tenancies) (Scotland) Act 2016.

Intimation of the application and the Case Management Discussion (CMD) was effected upon the respondent by Sheriff Officers on 30 March 2023.

The CMD took place by teleconference on 5 May 2023 at 2.00 pm. The applicant was represented by Ms Robyn Howard of Purplebricks. The respondent failed to participate in the hearing.

Findings and Reasons

The property is 15D James Street, Ayr KA8 0DJ. The applicant is Mr Thomas Jackson. He co-owns the property with his wife, Mrs Hayley Jackson who consents to the bringing of this application. Mr and Mrs Jackson are the landlords of the property. The respondent is Mr Graeme Wilson who is the tenant.

The parties entered into a private residential tenancy which commenced on 21 November 2020. The agreed rent in terms of the written lease was £400 per month.

The current eviction proceedings are based upon arrears of rent and the ground relied upon is ground 12A, contained within Part 1, Schedule 3 to the 2016 Act, as amended by the Cost of Living (Tenant Protection) (Scotland) Act 2022. This constitutes an eviction ground where there are 'substantial rent arrears'.

Substantial rent arrears for the purposes of ground 12A is defined as being where the cumulative amount of rent arrears equates to, or exceeds, an amount equivalent to 6 months' rent under the lease agreement where notice is given to the tenant on this new ground.

The applicant served a notice to leave upon the respondent by way of email on 9 November 2022. The notice to leave was prepared in accordance with Section 62 of the Act. At the time the notice to leave was served, the notice period was one of 28 days. The required notice was given and the notice to leave relied upon this application is valid.

The respondent has not paid any rent since early 2021. As at the date that the notice to leave was served, the respondent owed more than six months' rent. The arrears have continued to accrue and as at the date of the hearing, the respondent is now due £10,950 of rent arrears. This is evidenced by a detailed rent statement which the tribunal found credible and reliable and attached weight to it.

Ground 12A is established. The tribunal proceeded to consider the reasonableness of making the eviction order.

The respondent is known to live in the property alone. He is not known to have any disability or vulnerabilities. He has made a number of promises to pay the arrears but has not done so.

There is evidence that the local authority has been advised of the eviction proceedings with a relevant section 11 notice having been issued by the applicant. In the event of an eviction order being granted the local authority has a statutory duty to make alternative accommodation available to the respondent.

The Rent Arrears Pre-Action Requirements have been complied with. This is evidenced by the production of an email dated 16 November 2022 sent to the respondent setting out all the required information.

It is unreasonable that the applicant should be expected to continue to provide accommodation for the respondent in the absence of any rent being paid. The respondent's failure to pay rent is unacceptable.

The tribunal finds that it is reasonable that an eviction order be granted.

Ground 12A is an exception to the current additional protections afforded to tenants under the 2022 Act and as such the eviction can be enforced after the standard 30 day period.

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.

R. Mill

5 May 2023

Legal Member/Chair

Date