



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/19/4025

Re: Property at 33 Crathie Drive, Flat 3/2, Glasgow, G11 7XE (“the Property”)

Parties:

Mr Douglas Lockhart, 41 Spruce Avenue, Hamilton, ML3 7NQ (“the Applicant”)

Miss Rebecca Greenwood, 33 Crathie Drive, Flat 3/2, Glasgow, G11 7XE (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. An application had been received under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking recovery of possession under a private residential tenancy by the Applicant against the Respondent for the Property.
2. The application contained:-
 - a copy of the tenancy agreement,
 - a copy of the notice to leave with evidence of service
 - a copy section 11 Notice
 - a copy of the Respondents’ rental statement
3. Ms Currie, from Happy Lets Ltd appeared on behalf of the Applicant. The Respondent was also in attendance.

4. Today's hearing was a further case management discussion, the earlier hearing having been adjourned as the Respondent indicated that she had to self-isolate due to the Covid-19 virus. Notice of today's hearing had been sent to the parties by email. Parties confirmed that they had received the application and had the chance to consider it.

Hearing

5. The Applicant's agent advised that she was seeking an order for recovery of the possession of the property under the rent arrears ground. The rent arrears were still outstanding and had in fact increased to £5,735 as at 4 August 2020. They were in excess of one month's rent and had been outstanding for more than 3 months. There had been no payments to rent or arrears for a number of months. She advised that the Applicant's agents had tried to get the Respondent to pay the rent and arrears. The Respondent was aware of the rent arrears. Requests for repayment had been made. There had been a repayment proposal from the Respondent; however it had not been adhered to. The agent advised that it was difficult to make contact with the Respondent, as the Respondent did not reply to correspondence, calls etc.
6. The Respondent accepted that there were rent arrears. She did not dispute what the Applicant's agent said about the rent arrears being due. She advised that she had had problems making the payments and the covid-19 pandemic had contributed to those difficulties. She advised that the arrears were not caused by outstanding issues relating to benefits. She advised that she was not opposing the Applicant's application for eviction.

Findings in Fact

7. The Tribunal found the following facts established:-
8. There existed a private residential tenancy between the Applicant and the Respondents. It had commenced on 5 August 2019.
9. Condition 8 entitled "Rent" of the Tenancy Agreement provides that the rent for the property is £8310.00 per 6 months payable in advance.
10. There was a notice to leave addressed to the Respondent. It contained information for the Respondent as to why an eviction order was sought. It was dated 6 November 2019. It confirmed that proceedings would not be brought until 6 December 2019. It had been emailed to the Respondent on 6 November 2019. The ground in the notice to leave was ground 12 "you are in rent arrears over three consecutive months".
11. That 6 months advance rental payment had not been paid on 5 August 2019.

12. That as at 6 November 2019 payments to the rent account had been made on 15 August 2019 for £635; 23 August 2019 for £625; and 25 September 2019 for £625.
13. There are rent arrears outstanding at today's date totalling at least one month's rental due under the tenancy.
14. The arrears did not appear to have been caused by any delay or failure in the payment of a relevant benefit.
15. The section 11 notice had been sent to the local authority providing them with notice of the intention to raise recovery proceedings.

Reasons for Decision

16. Section 51 of the 2016 Act provides the Tribunal with a power to grant an order for eviction for a private residential tenancy, if it found that one of the grounds in schedule 3 of the Act applies.
17. The ground which the Applicant seeks eviction under is ground 12 rent arrears.
18. Sub paragraph 1 states that "It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months."
19. Sub paragraph 3 provides that the Tribunal may find that the ground named in sub-paragraph 1 applies if (a) for three or more consecutive months the tenant has been in arrears of rent; and (b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.
20. The Respondent did not oppose the application. The Respondent had agreed to pay 6 months' rent in advance. On the day that the notice to leave had been served, she had not made full payment of the 6 month's advanced rental payment. The arrears had now increased and had been outstanding for over three months. The arrears had not been caused by a delay in the payment of benefits. It appeared that the terms of sub-paragraph 3 were met. I was therefore prepared to find that the ground in sub paragraph 1 applies. I therefore grant an eviction order in terms of ground 12 rent arrears.

Decision

21. The Tribunal grants an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

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.

**Melanie Barbour
Legal Member/Chair**

**21/07/2020
Date**