



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/20/1080

Re: Property at 20d Tarbolton Road, Cumbernauld, G67 2AJ (“the Property”)

Parties:

Mrs Brenda Bernadette Sinclair, c/o Let Link (Bathgate) Limited, Unit 3 Waverley Industrial Estate, Waverley Street, Bathgate, West Lothian, EH48 8JA (“the Applicant”)

Mr Mark Robert Joseph Cook, 20d Tarbolton Road, Cumbernauld, G67 2AJ (“the Respondent”)

Tribunal Members:

Richard Mill (Legal 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 against the Respondent be granted

Introduction

This case was heard at the same time as case referenced FTS/HPC/CV/20/1081.

These applications relate to a Private Residential Tenancy and are :

1. Under Rule 109 and s51 of the Private Housing (Tenancies) (Scotland) Act 2016 for an eviction order.
2. Under Rule 111 and s71 of the Private Housing (Tenancies) (Scotland) Act 2016 for a payment order.

A Case Management Discussion (CMD) took place by teleconference on 20 August 2020 at 10.00 am. The Applicant was represented by Miss Kirsty Donnelly of Messrs Bannatyne Kirkwood France & Co.

Personal service of the applications and notification of the CMD was made upon the Respondent by Sheriff Officers on 30 July 2020. The Tribunal was satisfied that the Respondent had received notice of the application and was aware of the CMD. He had not lodged any written representations. He did not participate in the CMD. There was no barrier to him doing so.

Findings and Reasons

The Property is 20d Tarbolton Road, Cumbernauld, G67 2AJ.

The parties entered into a Private Residential Tenancy which commenced on 3 October 2019. The rent was stipulated at £425 per month.

Notice to Leave dated 6 March 2020 was served upon the Respondent. The basis of the Notice was ongoing rent arrears for more than 3 months – Ground 12.

The notice period set out in the Notice to Leave meets the requirements of section 62 of the Act and is valid.

The application for eviction is accompanied by a rent statement which evidences the rent arrears. The last payment of rent was made on 25 October 2019.

The Tribunal found the Applicant's representatives' submissions to be credible and reliable and consistent with the documentary evidence which the Tribunal attached weight to.

The Applicant is entitled to recover possession of the Property. Rent arrears of more than one month's rent have existed for a continuous period prior to the hearing for more than 3 consecutive months. The arrears are not due wholly or partly as a consequence of a delay or failure in the payment of a relevant benefit. The ground established on is a mandatory one under Schedule 3 Part 3 Ground 12 of the Act. An Eviction Order is made against the Respondent.

The Applicant is legally entitled to recover the rent legally due and outstanding in terms of the lease. The Applicant's agent requested that no payment order be made at this stage so as to afford an opportunity to lodge an amendment application to be made in terms of Rule 14A to increase the sum sought. This is reasonable. The arrears at the time of application stood at £2,125. These have now risen to £3,825.

In the circumstances a fresh CMD is to be fixed in the recovery action. The Applicant is allowed 21 days to lodge, and intimate to the Respondent, an amendment application in terms of Rule 14A. The next CMD will be fixed 21 days thereafter.

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

Legal Member/Chair

Date 20 August 2020