



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/20/1161

Re: Property at 273d Bank Street, Coatbridge, ML5 1HT (“the Property”)

Parties:

Mrs Razia Mohsan, 41 Morrison Street, Glasgow, G5 8LB (“the Applicant”)

Mr Ryan Jack, Mrs Georgina Shillinglaw, 273d Bank Street, Coatbridge, ML5 1HT; 273d Bank Street, Coatbridge, ML5 1HT (“the Respondents”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondents)

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

Background

This is an application for an eviction order received by the Tribunal on 11th May 2020 and brought in terms of Rule 109 (Application for an eviction order) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant seeks an eviction order in relation to the Property against the Respondents, and provided with her application copies of the private residential tenancy agreement, notice to leave and proof of service, section 11 notice and proof of service, and rent arrears statement.

All of these documents and forms had been correctly and validly prepared in terms of the provisions of the *Private Housing (Tenancies) (Scotland) Act 2016*, and the procedures set out in that Act appeared to have been correctly followed and applied.

The Respondents had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 22nd July 2020, and the Tribunal was provided with the executions of service.

Case Management Discussion

A Case Management Discussion was held at 14.00 on 17th August 2020 by Tele-Conference. The Applicant did not participate, but was represented by her husband, Mr Mohammed Mohsan. The Respondents did not participate, nor were they represented. The Respondents have not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant had e-mailed the Tribunal an updated rent arrears statement on 5th August 2020 showing that as of that date, rent arrears had increased to £3,900.00. Mr Mohsan advised the Tribunal that the Applicant had subsequently received one further payment of £150.00 from the Respondents on 6th August 2020, and that the current rent arrears as of today's date are £3,750.00.

Rental of £450.00 per month is payable in advance in terms of clause 7 of the private residential tenancy agreement. The Respondents had been in arrears of rent for four months as at the date of the notice to leave, they have been in arrears of rent for a continuous period of more than three consecutive months, and the arrears of rent currently substantially exceed one months' rent.

The Tribunal was invited by Mr Mohsan with reference to the application and papers to grant the order sought on ground 12 of Schedule 3 to the *Private Housing (Tenancies) (Scotland) Act 2016*.

Statement of Reasons

In terms of Section 51 of the *Private Housing (Tenancies) (Scotland) Act 2016* ("the Act"), the Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

Para 12 of Schedule 3 to the Act provides that it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months. The Tribunal must find that this ground applies if (1) at the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, the tenant is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and (2) has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more

consecutive months, and (3) the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.

The Tribunal is satisfied that ground 12 has been established. The tenant is in substantial arrears of rent which currently exceed one month's rent, and has been in arrears for a continuous period in excess of three months. The Tribunal is further satisfied that the tenant being in arrears is not wholly or partly due to any delay or failure in the payment of a relevant benefit. There has been no evidence to establish any such reason for rent arrears.

Decision

In these circumstances, the Tribunal will make an order for possession of the house let on the tenancy as sought in this application.

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.

N Kinnear

Legal Member/Chair

17/08/2020

Date