



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

Chamber Ref: FTS/HPC/EV/21/2409

Re: Property at 83 Wylie Crescent, Cumnock, KA18 1LT (“the Property”)

Parties:

Mr James Anderson, 1 Sandray Gardens, Glasgow, Newton Mearns, G77 5GX (“the Applicant”)

Ms Hayleigh O'Dea, 83 Wylie Crescent, Cumnock, KA18 1LT (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Ahsan Khan (Ordinary Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (hereinafter referred to as “the 2016 Act”) for an Eviction Order. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made.

Decision (in absence)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondent under section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016.

Attendance and Representation

The Applicant was represented by Matthew Gunn, Gallus Lettings, Clyde Officeces, 2nd Floor, 48 West George Street, G2 1BP.

The Respondent did not attend the Tribunal and no written representations had been received. Service of the Application had been affected appropriately by Sheriff Officer.

Preliminary Matters

There were no preliminary matters other than the non attendance of the Respondent.

Matters Arising

The Tribunal confirmed with the Applicant's representation that no contact had been made by the Respondent to them in respect of the Application. The most recent contact was a text message last week as the Applicant is seeking contact due to a water leak affecting the property below. He confirmed that no payments had been received to rent since 1st December 2020.

The Applicant's representative made oral submissions in support of seeking grant of an order under section 51(1) of the 2016 on the grounds of rent arrears. It was noted the relevant notice in terms of Section 50 (1)(a) of the 2016 had been sent. The relevant notice to the Local Authority had been made with reference to same in the Application. No payments under the tenancy had been made since December 2020. There had been no contact with the Respondent for some time either to the Applicant or his representatives. As at date of the last rent statement lodged on 11th November 2021 rent due was £4800.

The Applicant's representative set out that he himself set up the Tenancy and met the Respondent and her partner at the property for this purpose. He said the Respondent was working at the time, was in her mid 30's and had no dependents. He said he was not aware of any other change in circumstances and there had been correspondence sent to the Respondent and to the Benefits agency direct in case there was an entitlement to same but there was no reply to either correspondence.

Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent had received notification of the proceedings by Sheriff Officer and had not challenged same by written representations or attendance.**
- 2. The Applicant sought an Order for Eviction on the grounds of rent arrears.**
- 3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property as a copy title was lodged with the Application.**
- 4. There was a PRT in place between parties dated 28th September 2020. A Notice to Leave was sent to the Respondent on 1st April 2021.**

5. The Tribunal was satisfied on balance that the Respondent was in terms of Schedule 3, Part 3 Ground 12 of the 2016 Act at the beginning of the day the Tribunal first considered the application for an Eviction Order on its merits in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rents under the tenancy on that day and has been in arrears of any amount for a continuous period of up to 3 or more consecutive months.
6. On 11th November 2021 rent arrears for the property due by the Respondent amounted to £4800.
7. Further the Tribunal was satisfied on a balance of probabilities that the said arrears are not wholly or partly due to delay or failure of payment of the relevant benefit.
8. The Tribunal found that the requirements of Ground 12 of Schedule 3 to the Act had been met.
9. Further the Tribunal was satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period.
10. The Tribunal noted the Local Authority under the 2016 had been notified.
11. On the information given to the Tribunal by the Applicant's Representative which was credible the Respondent had no dependents, was in her mid 30's and had been working at the outset of the Tenancy and the Tribunal found an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020.
12. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.

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.

K. K

Legal Member/Chair

Date: 21 January 2022