



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Housing Private (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/22/2272

Re: Property at 7 Queens Pend, Blairgowrie, PH10 6EU (“the Property”)

Parties:

LAR Housing Trust, F3 Buchan House, Enterprise Way, Fife, Dunfermline, KY11 8PL (“the Applicant”)

Mr Ryan Magee, 7 Queens Pend, Blairgowrie, PH10 6EU (“the Respondent”)

Tribunal Members:

Jan Todd (Legal Member) and Elizabeth Currie (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 in favour of the Applicant of the Respondents from the Property should be granted.

1. This was a Case Management Discussion in respect of an application by the Applicant dated 6th July 2022 for an order for eviction against the Respondents. This was the first calling of the case before a Tribunal.
2. The following documents were lodged with the application and afterwards in response to a direction from the Tribunal:-
 - A copy of the Tenancy Agreement dated 1st June 2021
 - Copy Notice to Leave dated 15th December 2021
 - E-mail enclosing Notice to leave dated 15th December 2021
 - Copy S 11 Notice to Perth and Kinross Council
 - Copy rent statement showing rent due as of 1st June 2022 of £4235

The Case Management Discussion (CMD)

3. The CMD proceeded today by way of teleconference. The Convener made introductions, and explained how the CMD would be conducted over the

teleconference The Applicant's legal representative Ms Claire Mullen attended. The Respondent was not present and has not made any representations,.

4. The application and accompanying papers were served on the Respondent by sheriff officers on 1st September so the Tribunal considered intimation of the time and date of the teleconference had been made and it would be fair and appropriate to continue.
5. Ms Mullen advised that the tenancy was entered into during June 2021 and no rent had been paid since August 2021 and advised that the rent now due and owing was £5,969.60.
6. The Applicant has lodged a Notice to Leave which was sent to the tenant by e-mail on 15th December 2021. The Applicant is seeking the order in terms of Ground 12 of Schedule 3 of the Act namely that the Respondent is over 3 months in arrears of rent. Ms Mullen explained that her client, the Applicant believes that the Respondent is no longer in employment but although they believe he was in receipt of universal credit and housing benefit he has not made any payment towards the rent. She advised that they have made a lot of attempts to contact the Respondent to offer support and come to an agreement regarding a payment plan to pay off the arrears. She referred to a letter sent by the Applicant dated 12th, 19th and 27th October including pre action requirement letters and noted that although an agreement to pay £500 per month was made no payment was ever received from the tenant. Ms Mullen confirmed however that the tenant phoned the Applicant on 20th June and said he was not going to move out until he was evicted. On 10th August in response to further phone calls from the applicant he asked for information about how he could make payments towards his arrears but no further payments have been received.
7. With regard to why it might be reasonable to grant an order for possession Ms Mullen advised the Respondent is a 32 year old male who lives alone in the Property and although he may be unemployed she believes he has received benefit payments none of which have been paid to the Applicant and the rent outstanding is now considerable as no rent has been paid for 13 months.

- **Findings in Fact**

1. The Applicant and the Respondents entered into a lease of the Property with the Respondents which commenced on 3rd June 2021.
2. The tenancy is continuing.
3. A notice to leave dated 15th December 2021 was served on the Respondent by e-mail confirming that no proceedings would be raised before 18th June 2022
4. These proceedings were raised on 6th July 2022 and the application included a copy of the Notice to Leave.
5. A Section 11 notice has been served on Perth and Kinross Council
6. Rent was due in the sum of £1,684 at the time of the service of the Notice to Leave which is more than 3 months rent.
7. Rent has not been paid since August 2021 and current arrears are £5969.60.

8. The Tribunal finds it reasonable that an order for eviction is granted for the reasons stated below.

Reasons for Decision

8. The Tribunal was satisfied that the Respondents had been served with a valid Notice to Leave under S52 (3) of the 2016 Act specifying Ground 12 of Schedule 3 of the Act as the relevant grounds of eviction.
9. The Notice to Leave was also accompanied by evidence of how the ground was met namely that there have been rent arrears for over 3 months.
10. Ground 12 required 6 months' notice under the rules which were set out by the Coronavirus (Scotland) Act 2020 for Notices to leave served in December 2021. The Notice sets out the notice period as expiring on 18th June 2022 and so 6 months' notice has been given.
11. The Tribunal accepted the verbal averments of Ms Mullen who was clear and credible in confirming the grounds were met.
12. The Tribunal then had to consider if it accepts it would be reasonable to grant an action for eviction on this ground. The Tribunal heard evidence that there are now substantial rent arrears, that the Applicant has made considerable attempts to offer assistance to the Respondent but the Respondent has made no attempt to repay any arrears despite being in receipt of some benefits. The Tribunal noted that the council will have a duty to provide assistance to the Respondent with his housing needs if and when an order for eviction is granted, Weighing up the needs of both parties the Tribunal was satisfied that it was reasonable for the order to be granted on this ground.
13. The Tribunal is therefore satisfied in terms of S 51 (1) of the Act that the eviction ground specified in the application namely Ground 12 is met, and that it is reasonable for the Tribunal to grant the application.

Decision

The Tribunal determined that the order for eviction sought by the Applicant should be granted

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.

Jan Todd

Legal Member/Chair

17th October 2022
Date