



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/22/3078

Re: Property at Flat 2/1, 23 Brodie Drive, Glasgow, G69 6FD (“the Property”)

Parties:

Lowther Homes Limited, 25 Cochrane Street, Glasgow, G1 1HL (“the Applicant”)

Mr John Campbell, Flat 2/1, 23 Brodie Drive, Glasgow, G69 6FD (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Leslie Forrest (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order be granted against the Respondent for payment to the Applicant the sum of £11,815.84 with interest thereon at the rate of 4.25% running from the date of this decision until payment

Introduction

1. These are two conjoined applications between the same parties. A short assured tenancy was entered into between the parties. The first application is under rule 66 and section 33 of the Housing (Scotland) Act 1988. The application seeks an eviction order. The second application is under rule 70 and section 16 of the Housing (Scotland) Act 2014. The application seeks recovery of rent arrears.
2. Intimation of the applications and CMDs is certified to have been made upon the respondent by sheriff officers on 15 November 2022.

3. The CMD took place on 14 December 2022 at 10am. The applicant was represented by Mr David Adams of Wheatley Housing Group. The respondent failed to participate in the hearing. There was no known barrier to him doing so.

Findings and Reasons

4. The Tribunal attached weight to the entirety of the documentary evidence which is not the subject of challenge. Thus was found to be both credible and reliable.
5. The property is Flat 2/1 23 Brodie Drive, Glasgow, G69 6FD.
6. The applicant is Lowther Homes Limited. They are the heritable proprietors and registered landlords of the property. The respondent is Mr John Campbell who is the tenant.
7. The parties entered into a short assured tenancy which commenced on 1 November 2014. The initial period of let was until 28 May 2015. The tenancy continued month to month since then, with an ish as at the 28th of each calendar month. A statutory AT5 was timeously served in advance of the tenancy being created. Monthly rent was stipulated at a rate of £600 per month. Rent increases have been effective over the years raising the rent from £600 to £630, to £648.90 and most recently to £658.63.
8. The respondent has fallen into considerable rent arrears. At the time of application the arrears stood at £9,181.32. A Rule 14A amendment application has been made reflecting the arrears as at the date of hearing of £11,815.84. This is evidenced in terms of a detailed rent statement, found to be credible and reliable.
9. On 28 April 2022 the applicant served upon the respondent a Notice to Quit. In the terms of the said Notice to Quit, the applicant gave notice to the respondent that he would require to remove from the property on or before 28 July 2022. Further, on 28 April 2022 the applicant served upon the respondent Notice under Section 33(1)(d) of the Housing (Scotland) 1988 stating that possession was required of the property as at 28 July 2022. The necessary notice was given. Evidence of Sheriff Officer service on 28 April 2022 has been produced. Sufficient notice was given by the applicant.
10. The short assured tenancy between the parties reached its ish as at 28 July 2022. Tacit relocation is not operating. No further contractual tenancy is in existence. The applicants have complied with the terms of Section 33(1)(d) of the Housing (Scotland) Act 1988.
11. The Rent Arrears Pre-Action Requirements are evidenced to have been complied with by the applicants.
12. All eviction grounds are now discretionary. The tribunal considered the reasonableness of making the eviction order sought.

13. Little is known regarding the respondent. He is known to live alone. His employment status is unknown. He has referenced health issues in communications with the applicant but more recently has advised that he is 'on track'. The respondent has not opposed either application.
14. The applicant has served a valid notice under section 11 of the Homelessness etc. (Scotland) Act 2003. It is most likely that in the event of an eviction order being granted the local authority will make alternative accommodation available for the applicant.
15. The Tribunal took account of the considerable rent arrears which exist. It is not reasonable for the applicants to maintain the tenancy in the absence of rent being paid.
16. In all of the circumstances the Tribunal found that it was reasonable to grant the eviction order applied for.
17. The Tribunal also found it necessary to grant the civil proceedings application requiring the respondent to pay the outstanding rent arrears to the applicant. He refuses or unreasonably delays to make the payments which he is legally obliged to.
18. In the application the applicant sought interest on the sum sought. At the time of amendment the applicant sought interest at the increased rate of 4.25%. The written lease provides for interest being applied on unpaid rent at the rate of 2% about the bank base rate. Fair notice has been given to the respondent and the Tribunal found it reasonable to award interest at the rate of 4.25%.

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.

Richard Mill

14 December 2022

Legal Member/Chair

Date