



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/22/3265

Re: Property at R18 11 Oakfield Avenue, Glasgow, G12 8JF (“the Property”)

Parties:

IBDT Property Limited, 1/1 15 North Claremont Street, Glasgow, G3 7NR (“the Applicant”)

Mr Thomas Knowles, R18 11 Oakfield Avenue, Glasgow, G12 8JF (“the Respondent”)

Tribunal Members:

Andrew Upton (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted, and the end date of the tenancy between the parties is 9 February 2023.

STATEMENT OF REASONS

1. This Application called for its Case Management Discussion on 9 January 2023. The Applicant was represented by Mr Gardiner of Gardiner Waters Limited, letting agents. The Respondent was neither present nor represented.
2. In this Application, the Applicant seeks an eviction order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. It contends that the Respondent has been in rent arrears for a continuous period in excess of three calendar months, and that the Respondent is in rent arrears in excess of one calendar month. In support of that assertion, the Applicant has produced a rent schedule dated 6 September 2022, in terms of which it appears that the Respondent has been continuously in rent arrears since 1 October 2021. Mr Gardiner advised the Tribunal that no rent had been paid since October 2022,

and that the Respondent's rent arrears were now £1,650, being a sum equal to five months' rent arrears.

3. In terms of section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, the Tribunal is required to issue an eviction order if it finds that one of the eviction grounds in schedule 3 to the Act applies. In this case, the Applicant relies on ground 12 of schedule 3. The requirements of ground 12 are as follows:-
 - a. for three or more consecutive months the tenant has been in arrears of rent, and
 - b. the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.
4. In terms of rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017, the Tribunal may do anything at a CMD that it may do at a Hearing, including make a decision. In terms of rule 2, when making a decision the Tribunal must have regard to the overriding objective to deal with proceedings justly, including by avoiding unnecessary delay.
5. The Respondent has been afforded an opportunity to attend the CMD and dispute the allegations made by the Applicant. He has chosen not to do so. The Tribunal is therefore satisfied that allegations that the Respondent is in rent arrears is not in dispute. The Tribunal is content to find that the Respondent has been in arrears of rent for three or more consecutive months.
6. Turning to the question of reasonableness, the Respondent did not appear to explain his particular circumstances. The Tribunal is grateful to Mr Gardiner for providing such information as he was aware of regarding the Respondent's circumstances. In particular, Mr Gardiner advised that the Respondent is in his early 30s with no known health issues. He lives alone. He has, throughout the tenancy, asserted that he has been in employment. The property has not been adapted for the Respondent's use. Mr Gardiner has tried to direct the Respondent to seek advice regarding payment of his arrears throughout the duration of the tenancy, but the Respondent's responses were sporadic.
7. In all of the circumstances, the Tribunal is satisfied that a Hearing is unnecessary. The Tribunal is satisfied that it is reasonable to issue an eviction order. It follows that the Tribunal finds that ground 12 of schedule 3 to the 2016 Act applies, and that an eviction order should be granted.
8. For the purposes of section 51(4) of the 2016 Act, the Tribunal finds that the Private Residential Tenancy between the parties shall terminate on 9 February 2023, being the earliest date that the eviction order may be enforced.

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.

Andrew Upton

09/01/2023

Legal Member/Chair

Date