



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/22/3410

Re: Property at Flat F 22 Inchinnan Road, Paisley, PA3 2RA (“the Property”)

Parties:

Lew Cheng Chuan, Property Bureau, Melville House, 70 Drymen Road, Bearsden, Glasgow, G61 2RH (“the Applicant”)

Mr Charles McAree, Flat F, 22 Inchinnan Road, Paisley, PA3 2RA (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondent.

Introduction.

This Hearing concerned an Application for an Eviction order under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 in respect to a Private Rented Tenancy. The hearing took place by teleconference.

1. Attendance and Representation.

The Applicant was represented by Mr John MacAulay, Ennova Law, 26 George Square Edinburgh EH8 9LD

The Respondent was not present. He was served personally by Sheriff Officer on 19th May 2023. No written representations had been received.

2. Preliminary Matters.

The Applicant's representative said that the Applicant has had no recent contact with the Respondent. He explained that an electrician went to the property and found same abandoned it appeared by the Respondent although there had been no contact on same. Nothing further had been heard from the Respondent.

There were no other preliminary matters raised.

3. Case Management Discussion.

The Applicant's representative set out that the Applicant was seeking an Eviction order on the basis of Ground 12, schedule 3 of 2016 Act. He explained that the respondent has been has in arrears of rent for more than 3 consecutive months commencing in October 2019. As at the date of the application on 31st October 2022 the arrears were £8325 and have continued to accrue. The Applicant's representative said that Pre Action Protocol letters had been sent to the Respondent on 14th and 28th June 2022. The Notice to Leave stating Ground 12 was served by Sheriff Officer on 14^h January 2022 giving the requisite notice period. The Local Authority had been intimated on in terms of the 2016 Act on 31st October 2022.

The Applicant's representative said that the Applicant is adversely affected on the basis the rent arrears are so significant presently. The submission was that an order was reasonable on the basis that the electrician visited on 8th June 2023 and all indication's had been that the Respondent had left the property. The Applicant has around 4 or 5 properties in Edinburgh for investment pursues. The letting agent who managed the property called the Property Bureau contacted the Respondent about the electrician visit and received no reply. The Applicant's representative confirmed his view was that the application was dated 31st October 2022 and as such subject to the Cost of Living (Tenant Protection) (Scotland) Act 2022.

Reasons for Decision and Findings in Fact and Law.

- 1. The Tribunal was satisfied that a decision could be made in the absence of the Respondent and to do so would be in the interests of the parties,**

in the interests of justice and having regard to the Overriding objective. The Respondent had been served personally by Sheriff Officer and had not provided any written representations or appeared at the Hearing.

2. The Applicant sought an Order for Eviction on the grounds of rent arrears, Ground 12.
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 13th April 2018.
5. A Notice to Leave was sent to the Respondent on 12th January 2022. The Applicant has sent pre action requirement correspondence to the Respondent and a copy of same was lodged. These were sent on 14th and 28th June 2022.
6. 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 rent 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.
7. Monthly contractual rent is £425. As at the date of the application on 31st October 2022 the arrears of rent were £8325.
8. 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.
9. The Tribunal found that the requirements of Ground 12 of Schedule 3 to the Act had been met.
10. Further the Tribunal was satisfied that the rent arrears were of a substantial nature. No payment to rent had been received for a significant period.
11. The Tribunal was also 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.
12. The Tribunal noted the Local Authority under the 2016 Act had been notified.
13. On the evidence available to the Tribunal and with limited information known of the Respondent the Tribunal found an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020.
14. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.
15. The Application is subject to the Cost of Living (Tenant Protection) (Scotland) Act 2022.

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 Kirk

19th June 2023

Legal Member/Chair

Date