



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Rule 17 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) In respect of an application under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and Rule 109 of the Rules

Chamber Ref: FTS/HPC/EV/22/3804

Re: Property at Slaughts Cottage, Glamis, Forfar, DD8 1SW (“the Property”)

Parties:

Strathmore Estates (Holding) Limited, 133 Fountainbridge, Edinburgh, EH3 9BA (“the Applicant”) per its agents, Bannatyne Kirkwood France and Co., 16, Royal Exchange Square, Glasgow, G1 3AG (“the Applicant’s Agents”)

Mr Robert Macaulay, Slaughts Cottage, Glamis, Forfar, DD8 1SW (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the statutory ground for eviction and recovery of possession having been established, it is reasonable to grant the Order sought and so the Tribunal granted the Order.

Background

1. By application received on 14 October 2022 (“the Application”), the Applicant’s Agents applied to the Tribunal for an Order for eviction and possession of the Property based on Ground 12 of the Act that the Respondent is in rent arrears over three consecutive months. The Application comprised a copy of private residential tenancy agreement between the Parties, copy rent statement showing rent arrears since 4 October 2021, copy correspondence to the Respondent satisfying the pre-action requirements, copy Notice to Leave in terms of Ground 12 of Schedule 3 to the Act dated 22 June 2022 together with proof of service and copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Angus Council, being the relevant local authority.
2. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (the “CMD”) was fixed for 23 February 2023 at 10.00 by telephone conference.

CMD

3. The CMD took place on 23 February 2023 at 10.00 by telephone conference. The Applicant did not take part and was represented by Mr. J. Jarvie of the Applicant's Agents. The Respondent was not present and was not represented. The Respondent did not submit written representations.
4. The Application and CMD were intimated the Respondent by Sheriff Officer on 4 January 2023 and so the Tribunal was satisfied that the Respondent is aware of the CMD and proceeded in his absence.
5. Mr. Jarvie advised the Tribunal that as far as he is aware, the Respondent is self-employed, and continues to reside in the Property. He resides alone. The Respondent had paid rent for the first year of his tenancy but has not made payment since October 2021 and has not engaged with the Applicant. Rent arrears stand at £12,000.00 to date.

Findings in Fact.

6. From the Application, the documents lodged and the CMD, the Tribunal made the following findings in fact:-
 - i) There is a private residential tenancy of the Property between the Parties at a monthly rent of £750.00 which began on 28 October 2020;
 - ii) The Respondent has not paid rent since October 2021 and has accrued arrears of £12,000.00;
 - iii) The Respondent is a single man who is self- employed;

Decision and Reasons for the Decision

7. Having found in fact that the statutory provisions for the termination of the tenancy have been complied with, the issue for consideration by the Tribunal is to determine if it is reasonable to grant the Order.
8. The Tribunal had regard to the whole circumstances of the matter. The Tribunal took the view that the level of rent arrears and the duration of non-payment is untenable for both Parties. Accordingly, in all the circumstances, the Tribunal found that it is reasonable to grant the Order sought.

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 Moore

Legal Member

23 February 2023
Date