



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/22/4046

Re: Property at 22 Bridge Street, Penicuik, EH26 8LN (“the Property”)

Parties:

Ms Catherine Swan, Mr John Swan, Borneostraat 28B, 1094CK, Amsterdam, The Netherlands, The Netherlands (“the Applicants”)

Natalie Moffat, 22 Bridge Street, Penicuik, EH26 8LN (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants are entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicants submitted an application under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicants sought an order to evict the Respondent from the property.
2. By decision dated 28 November 2022, a Convenor of the Housing and Property Chamber having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Tribunal intimated the application to the parties by letter of 11 January 2023 and advised them of the date, time and conference call details of today’s case management discussion. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient

information and considers the procedure to have been fair. The Respondent was invited to make written representations by 1 February 2023. No written representations were received.

4. The Tribunal received an email from the Applicants' representative on 27 January 2023 attaching an updated rent statement.

The case management discussion ("CMD")

5. The Applicants were represented by Mr David Gray. The CMD took place by conference call and proceeded in the absence of the Respondent. This case called alongside a related case which proceeds under chamber reference FTS/HPC/CV/22/3500. The Applicants' representative explained the arrears of rent have increased since the application was submitted and now total £4,397.81. The Applicants had no information about the Respondent's personal circumstances beyond the fact that she is in receipt of benefits. There is a shortfall between the rental charge and the housing element of the Respondent's benefits payment. The Respondent has not made any arrangement to pay the shortfall of rent or the rent arrears. There has been no recent contact with the Respondent.

Findings in Fact

6. The parties entered into a private residential tenancy which commenced 15 June 2022.
7. The Applicants served a Notice to Leave on the Respondents by sheriff officer on 20 September 2022.
8. As at the date of service of the Notice of Proceedings and at the date of the CMD, at least 3 months' rent is lawfully due by the Respondent.

Reason for Decision

9. The Tribunal proceeded on the basis of the written documents which were before it and submissions made at the CMD. The Applicants' representative invited the Tribunal to make the Order sought. The Applicants relied upon Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. The Respondent has been in arrears of rent since the beginning of this tenancy agreement. The Respondent has not made payment of the shortfall of rent and has not addressed the increasing arrears of rent. The tenancy appears to be unaffordable for the Respondent. The Respondent failed to lodge written submissions and failed to participate in the CMD. The Tribunal was satisfied that it was reasonable to grant the order evicting the Respondent from the property.

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.

Nicola Irvine

Legal Member/Chair

27 February 2023

Date