



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/23/0213

Re: Property at 23 Red Admiral Court, Dundee, DD4 0NN (“the Property”)

Parties:

SJZ Property LTD, Swallowbank, Long Cross Hill, Headley, Bordon, GU35 8BS (“the Applicant”)

Ms Samantha James, Mr Peter McPhee, 23 Red Admiral Court, Dundee, DD4 0NN (“the Respondents”)

Tribunal Members:

Richard Mill (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction be granted

Introduction

This application seeks an eviction order and is under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016.

Intimation of the application and of the Case Management Discussion (CMD) were effected upon the respondents by Sheriff Officers.

A CMD took place by teleconference on 9 May 2023 at 10.00 am. The applicant was represented by Miss Amy Lewis of Belvoir Letting Agents. The respondents were represented by Mr Kenneth Marshall Dundee Law Centre.

Findings and Reasons

The respondent's representative advised at the outset that the application was not opposed.

The property is 23 Red Admiral Court, Dundee DD4 0NN. The applicant is SJZ Property Ltd who is the heritable proprietor and registered landlord. The respondents are Ms Samantha James and Mr Peter McPhee, who are the tenants.

The parties entered into a private residential tenancy which commenced on 5 March 2020. The agreed rent in terms of the written lease was £350 per month.

The current eviction proceedings are based upon arrears of rent and the ground relied upon is ground 12, contained within Part 1, Schedule 3 to the 2016 Act, namely that the respondent is in rent arrears over three consecutive months.

The applications are supported by an up to date detailed rent statement which reflects the arrears of rent relied upon. The tribunal found this a credible and reliable document and attached weight to it. As at the date of that the notice to leave was served £2,325 was outstanding. The arrears have now increased to £2,575 as at the date of the hearing. Broadly speaking £300 has been paid monthly so the rent payments made have been £50 short each month.

The tribunal found that the notice to leave upon which the eviction application proceeds is valid. It is dated 24 May 2022. At the time that the notice was served the relevant notice period was one of 28 days. The notice served states an application will not be submitted to the tribunal for an eviction before 19 August 2022. Sufficiently longer notice than was required was given to the respondent. The notice was served personally upon the respondent by email which is evidenced. The notice to leave is valid.

The tribunal was satisfied that more than three consecutive months of rent remains unpaid by the respondent. This establishes ground 12. The tribunal proceeded to consider the issue of reasonableness.

The respondents were not opposed to an eviction subject to an agreement that rent would continue to be paid at the lower rate of £300 per month until their departure. The applicant's representative agreed this.

The respondents are both unemployed. They have a seven month old baby and the first respondent is due another child in November 2023. The property is a one bedroom apartment which does not meet the family's needs.

There is evidence that the local authority has been advised of the eviction proceedings with a relevant section 11 notice having been issued by the applicant. In the event of

an eviction order being granted that the local authority will make alternative accommodation available to the respondent and her family.

In all of the circumstances the tribunal determined that it was reasonable to grant the eviction order.

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.

R Mill

9 May 2023

Legal Member/Chair

Date