



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016.

Chamber Ref: FTS/HPC/EV/23/1797

Re: Property at 2 Old School Court, Fort William, PH33 7EH (“the Property”)

Parties:

Highland Housing Alliance, Highland Housing Alliance, Fairways, Castle Heather, Inverness, IV2 6AA (“the Applicant”)

Mr Steven Carmichael, 2 Old School Court, Fort William, PH33 7EH (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Mike Scott (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 Case Management Discussion concerned an Application for an Eviction Order in relation to a Private Residential Tenancy under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016. The hearing took place by teleconference

1. Attendance and Representation

Angus Brown, Harper Macleod LLP, Alder House, Cradlehall Business Park, Inverness, IV2 6AA attended for the Applicants. Kelly Campbell, Gayle Matheson and Claire Stoddart from the Applicant’s attended in the event assistance or further information was needed by the Tribunal.

The Respondent was not present and had been served by Sheriff Officer on 21st August 2023. The Tribunal did not commence until 10.10 am to try to allow the Respondent to attend.

2. Preliminary Matters

- a) The Tribunal raised the non-attendance of the Respondent as a preliminary matter. The Applicant's representative said that there was recent communication at the end of August 2023 to do with gaining entry to the property. However when the Respondent provided access it was by 2 unknown individuals and not by the Respondent so no communication took place. They confirmed that the Respondent still lived in the property.
- b) The Tribunal noted that the Applicant's representative had lodged with the Tribunal on 7th September 2023 an application to amend the sum sought in a related civil proceedings application to the sum of £6267.03. As at the 1st September 2023 the Tribunal noted the arrears due in terms of that rent statement and application was £6267.03
- c) There were no other preliminary matters raised.

3. Case Management Discussion.

The Applicant's representative sought an Eviction Order on the basis of Ground 12, Schedule 3 of the 2016 Act. The Applicant's representative said that the tenancy is a PRT and that the Applicant's are the landlords with the Respondent as the tenant. They had title to pursue the application and the tenancy remains with one tenant and no other notified adults residing within same. The Applicant's are aware that the Adult has 2 daughters and at least one is known to reside there on a regular basis. One is believed to have learning disability.

The Applicant's representative submitted that the PRT commenced on 19th November 2019 and the Respondent has lived there since that date. The Respondent is in excess of over 3 months rent arrears. At the time of the service of the Notice to Leave dated 20th March 2023, the Respondent was in rent arrears of £3310.61. Monthly rent at this time given increases over the years is £611.83.

The Applicant's representative said that the Respondent made a payment on 2nd May 2023 of £750 towards his rent account. This reduced the arrears to £37084.27. This was the last payment made to the rent account and the first payment which had been made since 25th October 2022. The Applicant's representative said that the Respondent was just over 10 months in arrears at present.

The Applicant's representative said that prior to proceedings the Applicant's provided information and directed the Respondent to suitable agents and citizens advice. They tried to correspond but there was no response. The Applicants will always consider proposed repayment plans and had made early in 2022 with the Respondent an arrears payment plan. The arrears were in

credit for before then two consecutive periods of no rent. The Applicant's considered an order was reasonable.

4. Findings in Fact

1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent had received notification of the proceedings and had not challenged same by written representations or attendance. The Tribunal was satisfied that the Applicants were the heritable proprietor of the Property.
2. The Tribunal was satisfied that the tenancy was a Private Residential Tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016 and dated 19th November 2019.
3. The monthly rent due in terms of the said Tenancy at present is £611.83.
4. The Applicant was relying on Ground 12, rent arrears, under Schedule 3, of the 2016 Act only to make the Application.
5. A valid Notice to Leave had been served on the Respondent dated 20th March 2023.
6. The Tribunal was satisfied that the Respondent was in arrears of rent for over three consecutive months to the amount as at the hearing of £6267.03. As at the date of the Notice to Leave in March 2023 the rent arrears were £3310.61.
7. The Tribunal was also satisfied that the arrears relied upon were not wholly or partly a consequence of a delay or failure in a relevant benefit.
8. Notice to the Local Authority had been given on 30th May 2023.
9. A full Rent Statement for the property had been lodged. An updated rent statement dated 1st September 2023 was lodged. there was evidence of pre-action protocol work on rent arrears.
10. The Tribunal was told the Respondent is believed to be self-employed and believed to be an owner of a garage. He has 2 adult daughters, one with learning disability. The Applicants are prejudiced financially with continued non-payment of rent.
11. the Tribunal was satisfied it was reasonable to grant the Order.
12. Accordingly in terms of Section 51 of the 2016 Act the Tribunal granted an Order against the Respondent for possession of the Property.

Reasons for the Decision

The Tribunal heard evidence from the Applicant's representative with detailed submission which satisfied that the terms of Ground 12, Schedule 3 of the 2016 Act applied and that the Respondent was in significant rent arrears. Only one payment of £750 was made to the rent account by the Respondent since October 2022. The Applicant's had provided correspondence and attempts to engage with the Respondent. On the basis of the up to date rent statement, the evidence heard in particular orally from the Applicant's representative at the CMD and the evidence in

the Application the Tribunal determined it was appropriate to grant an Order for Eviction.

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.



21st of September 2023

Legal Member/Chair

Date