



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/22/0796

Re: Property at 49 Warren Road, Hamilton, ML3 7QJ (“the Property”)

Parties:

Scottish Midland Co-operative Society, Hillwood House, 2 Harvest Drive, Newbridge, EH28 8QJ (“the Applicant”)

Darren Robert Lindsay, 49 Warren Road, Hamilton, ML3 7QJ (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 17th March 2022. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to ground 12 of the Private Housing (Tenancies) Act 2016.
2. The application included:-
 - a. Copy Private Residential Tenancy Agreement with commencement of tenancy being 27th March 2021;
 - b. Notice to Leave signed 13th September 2021 stating an application would not be submitted to the Tribunal before 16th March 2021;
 - c. Section 11 notice noting proceedings would not be raised before 17th March 2022; and

- d. Pre Action Requirement emails 7th August 2021 and 19th November 2021;
 - e. Copy email dated 13th September 2021 serving Notice to Leave upon the Respondent
3. On 10th May 2022, all parties were written to with the date for the Case Management Discussion ("CMD") of 16th June 2022 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 31st May 2022.
 4. On 10th May 2022, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 10th May 2022.
 5. The case was conjoined with case FTS/HPC/CV/22/1476

The Case Management Discussion

6. A CMD was held on 16th June 2022 at 2pm by teleconferencing. The Applicant was represented by Mr David Grey, paralegal, Gilson Grey solicitors. Miss Mandy Forrest, Residential Property Manager for the Applicant also was present. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the hearing.
7. Mr Grey told the Tribunal that there was nothing new since the email of 8th June 2022 increasing the amount sought. The last payment was the month after the Respondent moved into the Property. An order for payment in relation to rent arrears was lodged in process. This was for the amount outstanding up until October 2021. The Respondent has made no attempts to make payments to the arrears, though the payment order has not been served on him yet. The outstanding arrears now are £4025. This is bearing in mind that an order for payment was granted on 19th November 2021 for £3609 for rent arrears up until 28th October 2021.
8. Miss Forrest told the Tribunal that the Applicant has tried to make contact on numerous occasions by letter, email and text. There has been no response from the Respondent. The Police went to the Property in December 2021 and he was emailed about this. He emailed to state that the matter was blown out of proportion. He made no reference to making payments to his rent. There are no outstanding Universal Credit issues as far as is known. The Respondent occupies the tenancy on a sole tenancy basis. It is believed that there is a woman living with him but no children.
9. The Tribunal was satisfied that ground 12 has been met. It was also satisfied that there are no issues of reasonableness. The Tribunal granted the Order.

Findings and reason for decision

10. A Private Rented Tenancy Agreement commenced 27th March 2021.
11. The Respondent persistently failed to pay his rent charge of £575 per month. The rent payments are due to be paid on 27th day of each month.
12. Arrears accrued to more than one month's rent payment and was more than three months' rent payments at the date of the Notice to Leave and the CMD. The Respondent has only made one payment since the start of the tenancy. He has not communicated with the Applicant save for one email regarding a police visit in December 2021.
13. There are no outstanding Housing Benefit issues.

Decision

14. The Tribunal found that ground 12 had been established and granted an order in favour of the Applicant.

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.



Legal Member/Chair

16th June 2022

Date