



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/22/4214

Re: Property at 53G Longrow, Campbeltown, Argyll, PA28 6ER (“the Property”)

Parties:

Real Estate Wealth Development Limited, REWD Group HQ, Unit 4 Barons Court, Grangemouth, FK3 8BH (“the Applicant”)

Miss Megan Pitt, 53G Longrow, Campbeltown, Argyll, PA28 6ER (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Frances Wood (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 with email dated 23rd November 2022. The application was submitted under Rule 109 of The First-tier Tribunal 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) (Scotland) Act 2016.
2. The application included:-
 - a. Copy Scottish Government Model Private Residential Tenancy Agreement with commencement of tenancy being 26th August 2021;

- b. Notice to Leave dated 2nd September 2022 stating an application would not be submitted to the Tribunal before 3rd October 2022. First Class Signed for postage confirmation dated 2nd September 2022;
 - c. Section 11 notice noting proceedings would not be raised before 23rd November 2022 together with email serving up the local authority dated 22nd November 2022;
 - d. Rent statement from 26th October 2022. This detailed the rent of £475 per month and arrears of £5284.46
3. On 3rd February 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 9th March 2023 at 12pm by teleconferencing. The letter also requested all written representations be submitted by 24th February 2023.
4. On 7th February 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent leaving the documentation in the hands of Martin Campbell. This was evidenced by Certificate of Intimation dated 7th February 2023.
5. On 26th April 2023, the Applicant’s representative emailed the Housing and Property Chamber requesting that the amount sought be increased to £8134.46 for the conjoined case. The Applicant’s representative notified this by email on 25th April 2023 and by First Class Signed for letter. The notification included a rent statement from 26th December 2022 to 26th April 2023. This detailed the rent of £475 per month and arrears of £8134.46;
6. On 9th March 2023, the Respondent emailed the Housing and Property Chamber asking that the CMD due to be heard that day be postponed as she had been called into work. The Tribunal considered it to be in the interests of justice to postpone to allow the Respondent to attend.
7. On 14th April 2023, all parties were written to with the date for the CMD of 11th May 2023 at 10am by teleconferencing. The Tribunal were satisfied therefore, that the CMD could proceed in the absence of the Respondent given she had been served notice.
8. The case was conjoined with case FTS/HPC/CV/22/4217.

The Case Management Discussion

9. A CMD was held on 11th May 2023 at 10am by teleconferencing. The Applicant was represented by Mr Sean Watt, trainee solicitor, Anderson Strathern. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make representations in advance of the CMD.
10. Mr Watt informed the Tribunal that there has been no contact from the Respondent at all. The arrears have accrued further since the Notice to Leave and application to the Housing and Property Chamber. The conjoined case has

been amended to £8134.46. There have been no payments made. The Respondent lives in the Property on her own. There is no known Universal Credit Housing Element issues. The Respondent is not known to have any disabilities and the Property has not been adapted. The Respondent is believed to still be living in the Property. She had signed for a recorded delivery letter in April 2023 that was sent from Mr Watt's firm advising on the increase to the amount sought in the conjoined case.

11. Mr Watt was asked if he wished to amend to ground 12A. He stated that his instructions are to seek an order to be granted based upon ground 12. He has no instructions to amend to 12A. The Cost of Living (Tenant Protection)(Scotland) Act 2022 has been discussed with the Applicant.

Findings and reason for decision

12. A Private Rented Tenancy Agreement commenced 26th August 2021.
13. The Respondent persistently failed to pay her rent charge of £475 per month. The rent payments are due to be paid on 26th day of each month.
14. Arrears accrued to more than one months rent payment at the date of application and was more than three months rent payments at the date of the hearing. There have been no payments of rent made since at least October 2021.
15. A Pre Action Requirement letter was sent to the Respondent on 18th November 2022.
16. There are no known outstanding Universal Credit Housing Element issues.
17. The arrears sought totalled £8134.46. The Tribunal was satisfied that the Respondent had been aware that a higher amount was being sought in the conjoined application.
18. The Tribunal was satisfied that it was reasonable to grant an order for eviction given the high level of arrears, that the Respondent has not engaged with the Applicant and there has been no defence lodged.

Decision

19. The Tribunal found that ground 12 has 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.

Gabrielle Miller

11th May 2023

Legal Member/Chair

Date