



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/22/3870

Re: Property at 10 Campsie Avenue, Irvine, North Ayrshire, KA11 1JF (“the Property”)

Parties:

Easton Property Limited, 2 Newfield Drive, Dundonald, South Ayrshire, KA2 9EW (“the Applicant”)

Miss Claire Manson, Mr James Laverty, 10 Campsie Avenue, Irvine, North Ayrshire, KA11 1JF (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

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

Background

1. The Applicant submitted an application under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondents from the property.
2. By decision dated 16 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 Notice of Acceptance was intimated to the Applicants on 17 November 2022. The Tribunal intimated the application to the parties by letter of 20 December 2022 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 Respondents were invited to make written representations by 10 January 2023. No written representations were received.

The case management discussion (“CMD”)

4. The Applicant was represented by Miss Aynsley Barclay and the First Respondent by Mr Alister Meek. The CMD took place by conference call and proceeded in the absence of the Second Respondent. This case called alongside a related case which proceeds under chamber reference FTS/HPC/CV/22/3871. The First Respondent’s representative explained that the First Respondent was not opposed to the application. Rent arrears have accrued and the First Respondent considers that the tenancy is not affordable. She has been in contact with a local authority and her application for rehousing has been successful, albeit she has not yet been offered alternative accommodation. The First Respondent currently resides in the property with one child. The Applicant’s representative explained that from September 2022, the Applicant has been receiving a direct payment of the housing element of the First Respondent’s universal credit claim. However, that has left a short fall each month, resulting in the rent arrears increasing to £3,928.12.

Findings in Fact

5. The parties entered into a private residential tenancy which commenced 1 April 2019.
6. The Applicant served a Notice to Leave on the Respondents by email on 31 August 2022.
7. The Respondents incurred rent arrears totalling £3,143.59 as at 1 October 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 Respondents.

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 Applicant invited the Tribunal to make the Order sought. The Applicant relied upon Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. The Respondents have been in arrears of rent for some time and owe more than 3 months’ rent. The First Respondent did not oppose the application for an eviction order and acknowledged that the tenancy is not affordable. She did not dispute the level

of rent arrears as set out in the rent statement lodged. The Second 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 Respondents 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.



Legal Member/Chair

16 February 2023

Date