



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/22/3242

Re: Property at 42 Broughty Ferry Road, Dundee, DD4 6BE (“the Property”)

Parties:

Mrs Vivien Dow, 69 Dalkeith Road, Dundee, DD4 7HF (“the Applicant”)

Mr Richard Sampson, 42 Broughty Ferry Road, Dundee, DD4 6BE (“the Respondent”)

Tribunal Members:

Nicola Irvine (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 Applicant is entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 109 for an order to evict the Respondent from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.
3. The Notice of Acceptance was intimated to the Applicant on 14 November 2022. Letters were issued on 14 December 2022 informing both parties that a case management discussion had been assigned for 14 February 2023 at 10am, which was to take place by conference call. 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

Respondent was invited to make written representations by 4 January 2023. No written representations were received by the Tribunal.

The case management discussion

4. The Applicant was represented by Mr Cruickshank. The case management discussion took place by conference call and proceeded in the absence of the Respondent. The Applicant's representative explained that the Applicant has been suffering financial hardship and as a result, intends to sell the let property. This is the only let property owned by the Applicant and she has a mortgage over it. The Respondent has incurred rent arrears which now total £8,387.04. The Applicant's representative has written to the Respondent and has suggested payment plans, but the Respondent has not adhered to payments. The Respondent has lived in the property since December 2014 and rent arrears first started to accrued from April 2020 onwards. The last payment of rent made was in August 2022. The Respondent is believed to live alone at the property and his personal circumstances are unknown to the Applicant. The Applicant has never received any direct benefits payments on behalf of the Respondent. The Applicant's representative has attempted to arrange a routine property inspection, but the Respondent has cancelled 3 arranged appointments, the last being in December 2022. The Applicant has already instructed solicitors in respect of the proposed sale of the property. It was submitted that it was reasonable in the circumstances for an order for eviction to be granted.

Findings in Fact

5. The parties entered into a private residential tenancy which commenced 1 January 2020.
6. The Applicant's representative served Notice to Leave on the Respondent by recorded delivery on 8 June 2022.
7. The Applicant intends to market the let property for sale.

Reason for Decision

8. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Respondent failed to submit written representations and failed to participate in the case management discussion. The Respondent appears to have incurred substantial rent arrears which has caused the Applicant financial hardship. The Applicant produced a letter from solicitors, with whom she has agreed terms in respect of the marketing and sale of the property. The Tribunal was satisfied that ground 1 has been established and that it was reasonable to grant the order sought.

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.

Nicola Irvine

14 February 2023

Legal Member/Chair

Date