



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/22/3289

Re: Property at 98 Kelvin Drive, East Kilbride, G75 0PQ ("the Property")

Parties:

Willbot Trustees Ltd as Trustees for the Isabella Memorial Trust, 17 Rankin Drive, Largs, North Ayrshire, KA20 9DA ("the Applicant")

Miss Heather McMillan and Mr Kevan Quinn, 98 Kelvin Drive, East Kilbride, G75 0PQ ("the Respondents")

Tribunal Members:

Gillian Buchanan (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondents)

At the Case Management Discussion ("CMD"), which took place by telephone conference on 10 January 2023, the Applicant was represented by Mr Stewart Renton of McArthur Renton Letting Limited. The Respondents were neither present nor represented. An observer was in attendance.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Respondents having received notice of the CMD and determined to proceed in the absence of the Respondents in terms of Rule 29.

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that:-

Background

The Tribunal noted the following background:-

- i. The Applicant leased the Property to the Respondents in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 2 June 2018.
- ii. The rent payable in terms of the PRT is £425 per calendar month.

- iii. The rent arrears due as at the date of the application were in excess of the total of 11 months rent.
- iv. That on 6 June 2022, the Applicant served on each of the Respondents by Sheriff Officers a Notice to Leave requiring the Respondents remove from the Property by 8 July 2022 on the basis of rent arrears then due in a sum of £3,015.
- v. That the Applicant has served on South Lanarkshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the CMD Mr Renton for the Applicant made the following representations:-

- i. That the deposit of £425 previously paid by the Respondents is still held.
- ii. That the Respondents are believed to continue in occupation of the Property.
- iii. Efforts have been made to contact the Respondents by all means, including a colleague of Mr Renton attending at the Property, but there has been no response since the Notice to Leave was served.
- iv. There is believed to be two children under 10 years of age living with the Respondents.
- v. That the First Respondent's father had lived at the Property on a temporary basis due to ill-health but advice was given about potential overcrowding and he is now living elsewhere.
- vi. That the current rent arrears are £6,415, the last payment of rent having been made on 1 April 2022.
- vii. That the First respondent is believed to work as a self-employed cleaner and the Second Respondent is believed to work away from home.
- viii. The tenancy had previously been managed by other agents.
- ix. The onset of COVID19 led to the arrears increasing and these worsened to the end of 2020 and by the end of 2021 the Applicant could not allow the situation to escalate further.
- x. In around June 2022 a payment plan was reached. The First Respondent apologised for the delay in making payments due to one of her children being in hospital and a payment plan was reached. However, no payments materialised and there was no further contact from the Respondents.
- xi. The Applicant seeks an eviction order.

Findings in Fact

- i. The Applicant leased the Property to the Respondents in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 2 June 2018.
- ii. The rent payable in terms of the PRT is £425 per calendar month.
- iii. The rent arrears due as at the date of the application were in excess of the total of 11 months rent.
- iv. That on 6 June 2022, the Applicant served on each of the Respondents by Sheriff Officers a Notice to Leave requiring the Respondents remove from the Property by 8 July 2022 on the basis of rent arrears then due in a sum of £3,015.
- v. That the Applicant has served on South Lanarkshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- vi. That the Applicant has complied with the Rent Arrears Pre-Action Requirements (Coronavirus)(Scotland) Regulations 2020.
- vii. That the rent arrears accrued are now £6,415.
- viii. That it reasonable, in the circumstances, that an eviction order be granted in favour of the Applicant.

Reasons for Decision

The Respondents did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant within the application papers and orally by Mr Renton at the CMD was not challenged and was accepted by the Tribunal.

The Tribunal considered whether or not it would be reasonable to grant an eviction order and determined that it is reasonable to grant an eviction order under Ground 12 of Schedule 3 of the 2016 Act on the basis that the rent arrears accrued exceed the total of 15 months in value.

Decision

The Tribunal granted an eviction 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.

Gillian Buchanan

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Legal Member/Chair

10 January 2022

Date