



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/21/2960

Re: Property at 45/2 Valeview Terrace, Dumbarton, West Dumbartonshire, G82 3BJ (“the Property”)

Parties:

Mr Christopher McClung, Ms Lindsay McClung, 96 Dumbuck Road, Dumbarton, G82 3NA; 20/6 Valeview Terrace, Dumbarton, G82 3BL (“the Applicants”)

Mr Darren McCallion, 45/2 Valeview Terrace, Dumbarton, West Dumbartonshire, G82 3BJ (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondent)

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

[1] Background

The application before the Tribunal was made in terms of Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The Applicants sought an order to evict the Respondent from the property. The Tribunal intimated the application to the Respondent by sheriff officer on 8 March 2022 and advised him of the date, time and conference call details of today’s case management discussion. The Respondent was invited to make written representations, but no written representations were received by the Tribunal.

The case management discussion

[2] The Applicants were represented by Mr Piggot, solicitor. The case management discussion proceeded by conference call and in the absence of the Respondent. The Tribunal was advised that the Applicant relied upon Ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016 in respect that the Respondent was in rent arrears in excess of 3 months. It was submitted that it was reasonable in all the circumstances for the Tribunal to grant the order evicting the Respondent from the property: the Applicant's representative explained that the Respondent has failed to attend meetings arranged with the Applicants' letting agent; having reached an agreement in August 2021 to pay £150 per month towards the shortfall of rent and rent arrears, the Respondent had failed to make any payments; As far as known to the Applicant, the Respondent reside alone at the property; The Applicant complied with the pre-action protocol by writing to the Respondent about the level of rent arrears, but there was no response from the Respondent. The Applicant's representative moved the Tribunal to grant the order for eviction.

[3] Findings in Fact

- i. The parties entered into a private residential tenancy which commenced 31 January 2020.
- ii. The Applicants' letting agent personally served the Notice to leave on the Respondent on 14 December 2020.
- iii. The Respondent has been in arrears of rent for a continuous period in excess of 3 months.
- iv. As at the date of this case management discussion, the Respondent was in arrears of rent in excess of 3 months.

[4] Reason for Decision

The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Tribunal was satisfied that ground 12 has been established and that it is reasonable or the Tribunal to grant the order for eviction. The Applicants complied with the pre-action protocol, by instructing their agents to issue letters to the Respondent. The Respondent failed to engage with the Applicants or their representatives. The Respondent failed to lodge written representations or participate in the case management discussion. The Tribunal noted that on 8 August 2021, after service of the notice to leave, the Respondent agreed in writing to pay £150 per month to meet the shortfall of rent and to reduce rent arrears. Notwithstanding that agreement, no payments were made by the Respondent.

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

Date 22 April 2022