



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/20/0577

Re: Property at 49 Fallas Place, Fauldhouse, Bathgate, EH47 9BZ (“the Property”)

Parties:

Mr Paul Watson, 10 Gorsewood, Bishopbriggs, Glasgow, G64 2TQ (“the Applicant”)

Ms Patricia Stewart, 49 Fallas Place, Fauldhouse, Bathgate, EH47 9BZ (“the Respondent”)

Tribunal Members:

Jim Bauld (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted

Background

1. By application dated 18 February 2020, the applicant sought an order under section 51 of (“the Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. On 1 June 2020 the application was accepted by the tribunal and referred for determination by the tribunal.
2. A Case Management Discussion (CMD) was set to take place on 7 August 2020 and appropriate intimation of that hearing was given to both parties

The Case Management Discussion

3. The Case Management Discussion (CMD) took place on 7 August 2020 via telephone case conference. The applicant took part in the telephone case conference. The Respondent did not take part.
4. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters.
5. The tribunal asked various questions of the applicant with regard to the application and the grounds for eviction contained within it.
6. The applicant confirmed that he wished the order for eviction to be granted based only on ground 12 as set out within schedule 3 of the Act. He did not wish to insist on the other grounds narrated in the Notice to Leave or the application and sought to withdraw them. These grounds were the grounds set out in paragraphs 11, 14 and 15 of schedule 3 to the Act. The applicant did not wish to insist upon them and indicated he wished to withdraw them. The tribunal confirmed that he could do so.

Findings in Fact

7. The Applicant is the registered owner of the property. He and the Respondent as respectively the landlord and tenant entered into a tenancy of the property which commenced on 1 April 2019.
8. The tenancy was a private residential tenancy in terms of the Act.
9. The agreed monthly rental was £450.
10. On 17 January 2020 the applicant served upon the tenant a Notice to Leave as required by the Act. He did so by handing it to the respondent personally. The Notice became effective on 15 February 2020.
11. The notice informed the tenant that the landlord wished to seek recovery of possession using the provisions of the Act.
12. The notice was correctly drafted and gave appropriate periods of notice as required by law.
13. The notice set out various grounds contained within schedule 3 of the Act, including ground 12 that the tenant had been in arrears of rent for three or more consecutive months.
14. Arrears had started to accrue shortly after the commencement of the tenancy and at the date of service of the Notice to Leave amounted to £900.00.
15. At the date of the lodging of the application arrears amounted to £1150.00.

16. The tenant had been continuously in arrears from June 2019 until the date of the CMD.

17. The amount of arrears at the date of the CMD was £2050 and thus exceeded one month's rent

18. The basis for the order for possession was accordingly established

Reasons for Decision

19. The order for possession was sought by the landlord based on a ground specified in the Act and properly narrated in the notice served upon the tenant. The tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the landlord was entitled to seek recovery of possession based upon that ground

20. The tribunal accepted the evidence presented on behalf of the landlord with regard to the rent arrears. A rent statement was produced which set out the history of the arrears. Since 15 May 2020 rent was now being received each month via direct Universal Credit payments.

21. The tribunal was satisfied that the tenant had been in arrears for a period far in excess of three consecutive months and the arrears owed were significantly in excess of one month's rent. The ground for eviction was accordingly established and the tribunal was obliged in terms of the provisions of the 2016 Act to grant the order sought.

22. The tribunal decided to exercise the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD

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.

J. B

Legal Member/Chair

Date: 07 August 2020