



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/21/1776

Re: Property at 62B Broomlands Street, Paisley, PA1 2NN (“the Property”)

Parties:

Ms Louise Sung, 22 Whinihill Road, Glasgow, G53 5RQ (“the Applicant”)

Mr Ross Montgomery, Mr Gregg McAuley, 62B Broomlands Street, Paisley, PA1 2NN; 62B Broomlands Street, Paisley, PA1 2NN (“the Respondents”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber signed 25th October 2021. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to ground 12 of schedule 3 of the Private Housing (Tenancies) Act 2016.
2. The application included:-
 - a. Private Residential Tenancy Agreement with commencement of tenancy being 15th February 2019;
 - b. Notice to Leave signed 9th December 2020 stating an application would not be submitted to the Tribunal before 14th June 2021;

- c. Section 11 notice noting proceedings would not be raised before 14th June 2021;
 - d. Rent statement from 15th February 2019 to 1st September 2021. This detailed the rent of £399 per month and arrears of £6797.39; and
 - e. Copy letter dated 9th December 2020 serving Notice to Leave upon the Respondent.
3. On 9th December 2021 all parties were written to with the date for the Case Management Discussion (“CMD”) of 18th January 2022 at 10am by teleconferencing. The letter also requested all written representations be submitted by 30th December 2021.
 4. On 14th December 2021, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service and first class post. This was evidenced by Certificate of Citation dated 14th December 2021.
 5. The case was conjoined with case FTS/HPC/CV/21/1777.

The Case Management Discussion

6. A CMD was held on 18th January 2022 at 10am by teleconferencing. The Applicant was represented by Ms Jaqueline Cameron, Property Manager, Castle Residential. Miss Daryl Harper, Assistant Property Manager, Castle Residential was also present. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondents did not make representations in advance of the hearing.
7. Ms Cameron stated that the current arrears are £7593.39. The last payment was made on 14th January 2022 for £200. It is believed that this is a Universal Credit payment though it has not been confirmed by the Respondents and is not paid directly by the DWP. The payment of £200 has been regular but is far below the monthly rent charge of £399. There has been no offer of payment to the arrears. Ms Cameron does not believe that there are any outstanding Housing Benefit or Universal Credit issues.
8. The last contact by either Respondent was on 3rd September 2021 when Mr McAuley had contacted to see what could be done to address the situation. However, he has not addressed the arrears or contacted since. Ms Cameron believes that Mr McAuley is residing in the Property on his own and that Mr Montgomery has left, though no notice has been given.
9. Ms Cameron told the Tribunal that the Respondents are in their mid to late twenties. There are no children living at the Property. She was unaware of their employment status.
10. Ms Cameron said that there have been 5 unsuccessful attempts to get into the Property to undertake a gas safety check. It expired on 19th December 2021.

11. Ms Cameron was not aware of any other issues of reasonableness.
12. The Tribunal was satisfied that the outstanding amount for £6796.39 for which a payment order was sought in the civil case, was due to the Applicant by the Respondents and that it was appropriate to grant an eviction order accordingly.

Findings and reason for decision

13. A Private Rented Tenancy Agreement commenced 15th February 2019.
14. The Respondents have persistently failed to pay their rent charge of £399 per month. The rent payments are due to be paid on 1st day of each month.
15. There are now no outstanding Housing Benefit or Universal Credit issues.
16. The arrears now total £7593.39 which has increased beyond that sought in the application of £6796.39.
17. The Respondents were in more than three months arrears prior to the Notice to Leave being served. The arrears have continued to accrue since as the rent due each month continues to be underpaid by £199. There is no prospect of any repayment agreement for the arrears being reached as the respondents have repeatedly failed to engage with the landlord on the matter.

Decision

18. The Tribunal found that ground 12 has been established and the granted an 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.

G Miller

18th January 2022

Legal Member/Chair

Date

