



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

Chamber Ref: FTS/HPC/EV/18/3113

Re: Property at 1 Main Street, Blairingone, Dollar, FK14 7NU (“the Property”)

Parties:

Dollar Property Company Ltd, Rosehall, Balado, Kinross, KY13 0NJ (“the Applicant”)

Miss Joanna Turnbull, 1 Main Street, Blairingone, Dollar, FK14 7NU (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

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

Background

1. This is an application in terms of Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) for a Private Residential Tenancy Eviction Order. The Applicant is seeking an order for eviction in terms of Schedule 3 paragraphs 10 and 12 of the Act in terms that the Respondent is no longer occupying the Property and that the Respondent has been in rent arrears for three or more consecutive months.
2. The parties entered into a Private Residential Tenancy on 26th April 2018. The rent payments of £560 per month were due four weekly in arrears with the first payment due on 26th May 2018.
3. The Tribunal had before it the following documents:

- a) Application dated 15th November 2018 received by the Housing and Property Chamber on 19th November.
- b) Scottish Government Model Private Residential Tenancy Agreement signed 26th April 2018.
- c) Notice to Leave dated 10th October 2018 detailing that no payments had been made by the Respondent. One payment had been received from Perth and Kinross Council of £780 on 13th August 2018. The end of the notice period being 13th November 2018.
- d) Sheriff Officers execution of service for the Notice to Leave dated 12th October 2018 which was served upon the Respondent's partner at the Property.
- e) Title deeds with reference KNR410.
- f) Section 11 Notice noting date of raising proceedings 15th November 2018.
- g) Notice of acceptance of the application by the Housing and Property Chamber dated 5th December 2018.
- h) Sheriff Officer certificate of citation for documents pertaining to CMD on 15th January 2019 at including date and time of the CMD. The certificate is 21st December 2018 and issued by letterbox delivery. The Sheriff Officer being satisfied that the Respondent resided at the Property.

Case Management Discussion

4. The Tribunal held a Case Management Discussion ("CMD") on 15th January 2019 at STEP Stirling, Stirling Enterprise Park, John Player Building, Stirling. The Applicant was not present but was represented by Ms Mhairi McCallum from Jardine Donaldson Solicitors. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Tribunal considered the Application. The Respondent was written to on 20th December 2018 asking for any representations to be sent to the Housing and Property Chamber no later than 8th January 2019. No representations were submitted.
5. The Applicant had last heard from the Respondent since prior to October 2018. The Respondent is believed to have left the Property but the Applicant cannot confirm it. The arrears currently stand at £4260. There have been no payments made by the Respondent during the tenancy. There are no outstanding Housing Benefit issues.
6. The Tribunal was satisfied that all the documents had been appropriately served and there was no ground for discretion.

Findings in Fact

7. The parties entered into a Private Residential Tenancy on 26th April 2018. The rent payments of £560 are in arrear four weekly with the first payment due on 26th May 2018.

8. The Respondent failed to make any payments to her rent charge. One payment of Housing Benefit has been paid but no others were made. The current arrears are £4260. This is more than three months consecutive rent payments through the tenancy and more than one months rent still owing.
9. The Housing and Property Chamber received an Application on 15th August 2018.
10. An Order for recovery and possession of the Property was granted on 31st August 2018 by the Housing and Property Chamber.

Reasons for Decision

11. The Tribunal was satisfied that there were no other issues of reasonableness before them and that the notices had been served in an appropriate manner and that a Private Residential Tenancy had been entered into by the parties. The Tribunal was not satisfied that ground 10 had been established as there was no evidence to support it other than one letter from Perth and Kinross Council. The Tribunal was satisfied that ground 12 had been established as the Respondent had failed to pay three consecutive months rent payment and was still in excess of one month rent payment in arrears. The Tribunal was satisfied all appropriate paperwork had been served. The Order for repossession was granted.

Decision

12. The Applicant is entitled to for an Order of for recovery of possession.

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.

Gabrielle Miller

Legal Member/Chair

15 Jan 19

Date