



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/23/0951

Re: Property at 4B North Port, Perth, PH1 5LU (“the Property”)

Parties:

Ms Andrea Hay, 73 Bonhard Way, Perth, PH2 6QB (“the Applicant”)

Mr Gary White, 4B North Port, Perth, PH1 5LU (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. The Applicant submitted an application under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondent from the property.
2. By decision dated 3 August 2023, a Convenor of the Housing and Property Chamber, having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Notice of Acceptance was intimated to the Applicant’s representative on 9 August 2023. The Tribunal intimated the application to the parties by letter of 20 September 2023 and advised them of the date, time and conference call details of today’s case management discussion (“CMD”). In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been

fair. The Respondent was invited to make written representations by 11 October 2023. No written representations were received.

The case management discussion

4. The CMD took place by conference call. The Applicant was represented by Miss Amy Lewis of Belvoir Perth and her colleague, Caitlin Young joined as an observer. The Respondent did not join the conference call and the discussion proceeded in his absence.
5. The Applicant's representative explained that rent arrears have increased to £9,559. The Applicant has received some recent payments from the local authority and those payments relate to the Respondent's entitlement to benefits. However, the payments do not cover the full rental charge. The Applicant applied for a direct payment in relation to the rent arrears but that application was rejected. There has been no contact from the Respondent and no arrangement made to address the rent arrears. The Respondent is believed to be unemployed and lives alone at the property. The Applicant is not aware of the Respondent having any vulnerabilities.

Findings in Fact

6. The parties entered into a private residential tenancy which commenced 7 May 2021.
7. The Applicant's representative served a Notice to Leave on the Respondent by sheriff officer on 16 February 2023.
8. The Respondent has incurred substantial rent arrears which equate to more than 6 months' worth of rent.

Reason for Decision

9. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD.
10. The rent arrears are very substantial and now equate to more than 22 months' worth of payments. The Respondent did not participate in the CMD and did not lodge any written representations. There was nothing to indicate that the Respondent disputed the accuracy of the rent statement. There has been no contact from the Respondent and no arrangement made to pay the arrears of rent. The Tribunal formed the conclusion that the tenancy is not sustainable by the Respondent, given the very significant arrears and the fact that benefit payments do not cover the full rental payment.
11. The Tribunal was satisfied that the ground for eviction was established and that it was reasonable in all the circumstances to grant an order for eviction.

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

26 October 2023
Date