



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016.

Chamber Ref: FTS/HPC/EV/23/2156

Re: Property at 106 Stock Avenue, Paisley, PA2 6AS (“the Property”)

Parties:

Mrs Grace McManus, 5 Stable Grove, Paisley, PA1 2DR (“the Applicant”)

Mr Sam Goldsmith, 106 Stock Avenue, Paisley, PA2 6AS (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Frances Wood (Ordinary Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (hereinafter referred to as “the 2016 Act”) for an Eviction Order. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made.

1. Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondent.

2. Attendance and Representation

The Applicant was present and was represented by Jillian McHarg, her daughter. Both took part in the hearing.

The Respondent was not present. He was served personally by Sheriff Officer on 17th October 2023. He had not provided any written representations to the Tribunal.

3. Preliminary Matters

The Respondent was not present. The Applicant said there had been no personal contact between parties for over a year. The Applicant had had contact with the Respondent's housing support worker in August 2023. The Applicant was satisfied the Respondent was still living there as both her and her daughter live in the locality of the property.

The Applicant since the Application had lodged an updated rent statement showing rent arrears as at today's date of £6750. The last payment made by the Respondent to the rent account was on the 11th October 2022 to the amount of £400.

There were no preliminary matters raised.

4. Case Management Discussion.

For the Applicant

The Applicant's representative submitted she sought an order for Eviction. The Applicant seeks to sell the property and this was the initial reason. The Applicant's husband died and she referred to the death certificate lodged. This meant the Applicant sought for financial reasons to sell the property. The Applicant's representative submitted that substantial rent arrears are also present and as at today's date the arrears due by the Respondent were £6750. The Respondent has not paid any amount to rent since October 2022. The Applicant and the Applicant's representative visited a year ago and he was struggling to pay bills and he suffers from mental ill health, though this was something which had not been disclosed prior to the tenancy and no evidence had been provided.

The Applicant cannot manage the property as she is on her own now and cannot personally attend to things needing done, and affordability is an issue as her late spouse's salary ended on his death. An order for Eviction was sought. The Applicant explained there had been no rental income for some time, she is 67 years of age and is retired. The Respondent is in his mid-thirties, lives alone and the property is a one bedroom property. The Applicant's representative said the Respondent was a student and working initially. He moved to full time employment working night shift after his studies. The Applicant was told he was off sick at one point. As far as they are both aware the Respondent is still in full time employment and they were not aware of any payment of benefits, nor of the Respondent having any disabilities which could affect his housing needs.

5. Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the**

interests of the parties having regard to the Overriding objective. The Respondent had received notification of the proceedings personally by Sheriff Officer on 17th October 2023 and had not challenged same by written representations or attendance.

2. The Applicant sought an Order for Eviction on the grounds the Applicant seeks to sell the property in terms of Ground 1, there are rent arrears in terms of Ground 12 and those rent arrears are substantial in nature in terms of Ground 12A.
3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property as a copy title was lodged with the Application.
4. There was a PRT in place between parties dated 1st January 2019. A Notice to Leave was sent to the Respondent on 20th February 2023. Rent per calendar month is £425.
5. The Tribunal was satisfied on balance that the Respondent was in terms of Schedule 3, Part 3 Ground 12 of the 2016 Act at the beginning of the day the Tribunal first considered the application for an Eviction Order on its merits in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rents under the tenancy on that day and has been in arrears of any amount for a continuous period of up to 3 or more consecutive months.
6. The Tribunal was satisfied further on balance that the Respondent was in terms of Schedule 3, Part 3 Ground 12A of the 2016 Act in substantial rent arrears in excess of 6 months rent.
7. At the date of the application the Respondent was in rent arrears to the amount of £5200. No payments to rent by the Respondent have been to the rent or rent arrears since October 2022. The Applicant has lodged evidence of engagement on rent arrears. The Applicant has engaged with a Housing Support Worker for the Respondent. The rent arrears as at the date of the hearing were £6750.
8. Further the Tribunal was satisfied on a balance of probabilities that the said arrears are not wholly or partly due to delay or failure of payment of the relevant benefit.
9. Further the Tribunal was satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period.
10. The Tribunal noted the Local Authority had been notified.
11. On the information given to the Tribunal by the Applicant and her daughter, which was credible the Respondent had no dependents, some mental ill health and is considered to be working. The Applicant was retired, unable to afford or personally attend to the upkeep of the property and the Respondent was in substantial rent arrears for the property. The Tribunal found an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020.
12. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondent.

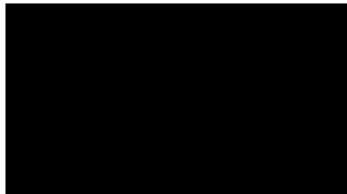
6. Reasons for Decision

The Tribunal heard credible evidence of the Applicant and the Applicant's representative that the Respondent is in substantial rent arrears and Grounds 12 and

12A were met. The rent arrears were supported by a rent statement lodged. The Applicant also sought to sell the property and had lodged substantiating evidence of same. The Tribunal weighed up the circumstances and determined on balance that an order for Eviction was reasonable.

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

Date: 20/11/2023