



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/23/3272

Re: Property at 20 Kelhead place, Glasgow, G52 4AB (“the Property”)

Parties:

Mrs Debbie Douglas, 2 Nursery Close, Fulwood, Preston, PR2 8FT (“the Applicant”)

Miss Kym Dallas, 20 Kelhead place, Glasgow, G52 4AB (“the Respondent”)

Tribunal Members:

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

Decision (in absence of the Respondent)

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 dated 18th September 2023. 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 12A of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 3rd November 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 15th December 2023 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 24th November 2023.

3. On 7th November 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 7th November 2023.

The Case Management Discussion

4. A CMD was held on 15th December 2023 at 2pm. The Applicant was represented by Mr Robert Downie, Office Manager, LM Properties Company. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the CMD.
5. Mr Downie told the Tribunal that the arrears currently stand at £5764.88. This is an increase on the amount detailed in the rent account that was dated up until 15th September 2023. He said that the Respondent was now on Universal Credit. She is receiving the full amount of her rent charge from Universal Credit. There was an issue at the start of the tenancy which meant that the arrears accrued further. Mr Downie said that he has tried to apply for arrears directly from Universal Credit but has been refused each time. The DWP will not give an explanation of why they have decided not to make the payment. Mr Downie noted that his company was not the letting agent at the start of the tenancy. He understands from the Applicant that there was a previous tenancy prior to this one where the Respondent accrued thousands of pounds of arrears. The Applicant allowed the Respondent a new start and cleared the arrears. However, the Respondent has since then accrued substantial arrears. He is not aware of why the arrears started to accrue in February 2022 as the Property was not being managed by his firm then.
6. Mr Downie said that he last heard from the Respondent approximately a month ago. She had not mentioned the rent arrears or addressing them. She told him that she has been to Glasgow Housing Association. They will not rehouse her with rent arrears. However, once there has been an order for eviction granted against her then she will be able to be classified as homeless. She will then be able to be rehoused. It was Mr Downie's belief that the Respondent wanted an order granted against her to allow her to be offered accommodation by a housing association.
7. Mr Downie said that the Respondent lives in the Property with her daughter who is 7 or 8 years old. There are no known disabilities, health problems or vulnerabilities. He said that the Applicant has said to him that she is suffering hardship by the Respondent not paying her rent and accruing arrears. He confirmed to the Tribunal that the Applicant has 13 -14 other properties that she rents out. Not all of them are managed by his firm.

Findings and reason for decision

8. A Private Rented Tenancy Agreement commenced 6th December 2020.
9. The Respondent persistently failed to pay her rent charge of £650 per month. The rent payments are due to be paid on 15th day of each month.
10. The Respondent is in substantial rent arrears. Though her rent is now being paid by Universal Credit her arrears amount to £5764.88. This is in excess of 6 months rent arrears.
11. The Applicant lodged all the appropriate paperwork when applying to the Housing and Property Chamber. This included the Pre Action Requirement letters.
12. The Respondent is waiting for an order to be granted to allow her to be assessed as homeless by Glasgow Housing Association.
13. There are no issues of reasonableness that would prevent an order for eviction being granted.

Decision

14. The Tribunal found that ground 12A has been established and 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.



15th December 2023

Legal Member

Date