



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/23/2158

Re: Property at Wester Clunie Farmhouse, Foss Road, Cluniemore, Pitlochry, PH16 5NF (“the Property”)

Parties:

Pitlochry Estate Trust, Pitlochry Estate Office, Pitlochry, PH16 5NE (“the Applicant”)

Mr Jonathan Morris, Wester Clunie Farmhouse, Foss Road, Cluniemore, Pitlochry, PH16 5NF (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.

Background

1. By application, dated 30 June 2023, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The Ground relied on was Ground 12A of Schedule 3 to the Act, namely that there are substantial rent arrears, equivalent to 6 months' worth of rent.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 24 August 2021 at a rent of £900 per month and a Rent Statement showing arrears of £7,160 as at 24 June 2023. The Applicant also provided a copy of a Notice to Leave dated 25 May 2023, advising that an application would not be made to the Tribunal under Ground 12A before 25 June 2023. The Rent Statement showed that only two payments, each of £20, had been made since November 2022.

3. On 17 October 2023, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 7 November 2023. The Respondent did not make any written representations to the Tribunal.
4. On 14 November 2023, the Applicant sought leave to amend the application to increase the arrears stated therein to £10,760.

Case Management Discussion

5. A Case Management Discussion was held by means of a telephone conference call on the morning of 22 November 2023. The Applicant was represented by Miss Rosanna Fraser of Bidwells, Perth. The Respondent was not present or represented. Miss Fraser advised the Tribunal that the arrears were still £10,760, with a further £900 due in two days' time. She believed that the Respondent lived alone in the Property and was not aware of his employment circumstances or of any disabilities or vulnerabilities that he might have. He was not responding to communications from the Applicant's representatives.

Reasons for Decision

6. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
7. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the Eviction Grounds named in Schedule 3 applies.
8. Ground 12A of Schedule 3 to the Act states that it is an Eviction Ground that the tenant is in substantial rent arrears and that the Tribunal may find that Ground 12A applies if the tenant has accrued rent arrears under the tenancy in respect of one or more periods, the cumulative amount of those rent arrears equates to, or exceeds, an amount that is the equivalent of 6 months' rent under the tenancy when Notice to Leave is given to the tenant on this ground in accordance with section 52(3) of the Act and the Tribunal is satisfied that it is reasonable to issue an Eviction Order. In deciding whether it is reasonable to issue an Eviction Order, the Tribunal is to consider whether the tenant's being in arrears of rent over the period or periods in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
9. The Tribunal was satisfied that, at the date and time of sending of the Notice to Leave, the rent arrears exceeded the equivalent of 6 months' rent and that no evidence had been produced to indicate that the Respondent's being in arrears

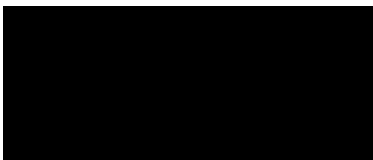
of rent over the period or periods in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.

10. The Tribunal noted that the Respondent had not made any written representations and had chosen not to be present or represented at the Case Management Discussion or to provide any information for the Tribunal to consider in arriving at its Decision. The arrears were very substantial and only two, very small, payments had been made since November 2022. Accordingly, having considered all the information before it, the Tribunal decided that it would be reasonable to issue an Eviction Order under Ground 12A of Schedule 3 to the Act.

11. The Tribunal's Decision was unanimous.

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

22 November 2023
Date