



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 (Act)

Chamber Ref: FTS/HPC/EV/23/0250

Re: Property at 61 Hood Street, Clydebank, G81 2LU (“the Property”)

Parties:

Mr John Houston, 7 Ben Edra Place, Glasgow, G53 7PN (“the Applicant”)

Miss Carly Scallan, 61 Hood Street, Clydebank, G81 2LU (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted.

Background

This was an application under Rule 109 and section 51(1) of the Act for eviction and recovery of possession on Grounds 12A of Schedule 3 to the Act.

The Tribunal had regard to the following documents:

1. Application received 25 January 2023;
2. Private Residential Tenancy Agreement (PRTA) commencing 25 January 2021;
3. Notice to Leave dated 5 September 2022 along with email serving;
4. Section 11 Notice to Local Authority along with email serving;
5. Rent Arrears Statement;
6. Certificate of Service of Tribunal CMD Notification on the Respondent by Sheriff Officers dated 24 March 2023;
7. Tribunal CMD Notification to Respondent dated 12 July 2023;

8. Written Representations from Applicant enclosing updated rent arrears and seeking amendment by email of 2 June 2023;
9. Letter of 8 June 2023 to Respondent enclosing application to amend.
10. Letter of 10 October 2023 from Tribunal to Respondent notifying CMD.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 13 November 2023. The Applicant did not participate but was represented by his Letting Agent. The Respondent did not participate and was not represented.

The Tribunal delayed the start of the CMD to see if the Respondent would participate but she did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that she should attend and the Tribunal could determine the matter in absence if he did not.

The Applicants' Representative confirmed that the amount of arrears had increased to £6,800 as at the CMD.

The Tribunal explained that it would still have to be satisfied that it was reasonable to grant the order sought.

The Applicants' Representative then addressed the Tribunal on the issue of reasonableness. She drew attention to the updated amount of rental arrears. The rent arrears were increasing and no rent was being paid.

The Applicant's Representative suspected the Respondent may have left the Property but could not confirm this. Beyond that they had been personally threatened, the Property had been trashed and the garden was in a state.

The Tribunal then considered the documentary and oral evidence it had received from the Applicants and in so far as material made the following findings in fact:

1. The Parties let the subjects under a PRTA commencing 25 January 2021;
2. The monthly rent was £475;
3. Notice to Leave had been served on the Respondent on 5 September 2022;
4. As at the date of service of the Notice to Leave the Respondent was in arrears of rent in an amount in excess of 3 months' rent;
5. As at the date of the CMD the Respondent was in arrears of rent in the sum of £6,800 (which was in excess of 6 months' rent);
6. The rental arrears were not due to any delay or failure in the payment of a relevant benefit;
7. Section 11 notification had been served on the local authority;
8. The Respondent is not paying the monthly rent;
9. The Property has been damaged by the Respondent and is not being looked after.

The Tribunal had previously granted an amendment to include Ground 12A. The Tribunal was satisfied that Ground 12A had been established and it was reasonable to grant the application for eviction and recovery of possession given the significant rent arrears which continued to increase.

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.

A Strain

13 November 2023

Legal Member/Chair

Date