



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/23/3669

Re: Property at 15 Harwood Street, Carntyne, Glasgow, G32 6HX (“the Property”)

Parties:

Ms Ann Boyle, Mr Thomas Boyle, 23 Croftspar Drive, Springboig, Glasgow, G32 0JG (“the Applicant”)

Miss Alisa Austin, 15 Harwood Street, Carntyne, Glasgow, G32 6HX (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Elizabeth Williams (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 eviction should be granted.

Background

1. On 13th October 2023 the Applicant lodged an Application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order to evict the Respondent from the property under Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.
2. Lodged with the application were: -
 - i. Copy Private Residential Tenancy Agreement showing a commencement date of 1st March 2022 and a rent of £585 per month;
 - ii. Copy Notice to Leave dated 4th September 2023;
 - iii. Proof of Recorded Delivery service of the Notice to Leave;
 - iv. Section 11 Notice and proof of service;
 - v. Rent Statement
 - vi. Pre Action Requirement letters

3. The Application was served on the Respondent by Sheriff Officers on 8th December 2023.

Case Management Discussion

4. The Case Management Discussion (“CMD”) took place by teleconference. The Applicant was represented by Miss Currie of Blackadders, Solicitors. There was no attendance by the Respondent or any representative on her behalf.
5. The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules.
6. Miss Currie sought an order for eviction in terms of grounds 12 and 12A of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 21016. She said that the Respondent had paid her rent up until 9th March 2023. Since then no payments had been received. Miss Currie’s firm were instructed in July 2023. They sent the Pre Action Requirement letters to the Respondent and had several telephone discussions with her. The Respondent said that she wanted to negotiate a payment plan. She said she wanted to leave the property. She offered £20 per month in total. This was rejected as it did not meet the ongoing rent. No further contact was made by the Respondent and no payment has been received. The arrears are now £6435.
7. The Tribunal noted that in the statement of claim it said that the arrears had not amounted to six months’ worth when the Notice to leave was served. Miss Currie submitted that they actually had added up to six months’ worth, and after checking the Tribunal agreed.
8. The Tribunal asked Miss Currie to address the Tribunal on reasonableness. Miss Currie said that she had limited information about the Respondent. She understood that the Respondent is a single person with one child, aged 8 or 9. She is believed to work part time and is believed to have family support locally. She is believed to be in receipt of benefit which is paid directly to her. The Applicants own a number of properties, and the rental is their source of income. They have not had to raise evictions proceedings against a tenant before.

Findings in Fact

- a. The parties entered into a Private Residential Tenancy Agreement in respect of the property;
- b. The tenancy commenced on 1st March 2022;
- c. A Notice To Leave, dated 4th September 2023, was served timeously and correctly;
- d. A section 11 notice was served on the local authority;
- e. The Applicant has complied with the Pre Action Requirements;

- f. Rent arrears at the time the Notice to leave was served amounted to £3510, which is equivalent to six months rent;
- g. The Application was served on the Respondent by Sheriff Officer on 8th December 2023;
- h. No rent has been paid since 9th March 2023;
- i. The rent arrears now stand at £6435;
- j. The Respondent made some contact with the Applicant's solicitor but has not had contact for some months.

Reasons for Decision

9. The tribunal is satisfied that Grounds 12 and 12A have been met.

10. The Tribunal now has to exercise its discretion in applying the facts to decide if it is reasonable to grant the order. The Tribunal considered that the facts that the rent is now eleven months in arrears, there have been no payments since March 2023 and there has been no recent contact by the Respondent make it reasonable to grant the order.

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.

**Alison Kelly
Legal Member/Chair**

**2 February 2024
Date**