



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/23/3565

Re: Property at 126 Bute Drive, Perth, PH1 3DA (“the Property”)

Parties:

Mr Niall Morrison, 41 Cappagh Grove, Port Stewart, Northern Ireland, BT55 7SU (“the Applicant”)

Mr Gary Quinn, 126 Bute Drive, Perth, PH1 3DA (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property.

Background

1. By application dated 9 October 2023 the Applicant’s representatives, Premier Properties, Perth, applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant submitted a copy of a tenancy agreement, Notice to Leave, rent statement and Section 11 Notice, together with other documents in support of the application.
2. By Notice of Acceptance dated 7 December 2023 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 18 January 2024.

The Case Management Discussion

4. A CMD was held by teleconference on 7 March 2024. The Applicant did not attend but was represented by Mr Murray Hall from the Applicant's representatives. The Respondent did not attend nor was he represented. The Tribunal being satisfied that the Respondent had been given proper intimation of the CMD determined to proceed in his absence.
5. The Tribunal noted that the Respondent had commenced a Private Residential tenancy on 14 August 2021 at a rent of £625.00 per calendar month. Mr Hall advised the Tribunal that the Respondent had fallen into arrears and had been served with a Notice to Leave by email on 6 September 2023 and at that time the rent due by the Respondent amounted to £3370.00. Mr Hall went on to say that the Respondent had agreed to numerous payment plans but had failed to keep to any of them. Mr Hall also explained that the Respondent's father was a guarantor and had previously made lump sum payments to reduce the debt but he had now refused to make any further payments. Mr Hall went on to say that the rent due had increased to £3920.00 and the Respondent had only paid £250.00 this year with no payments having been made since January.
6. The Tribunal noted that the Applicant's representatives had sent a Section 11 Notice to Perth & Kinross Council by email on 9 October 2023 and Mr Hall advised the Tribunal that pre-action letters had been sent to the Respondent on 14 and 22 September 2023.
7. Mr Hall explained that the Applicant had previously lived in the property before moving abroad and was now living with his parents in Northern Ireland. Mr Hall said the property was the Applicant's only property and that it was subject to a standard security and that the loss of income was a financial drain on the Applicant.
8. With regards to the Respondent's circumstances, Mr Hall said that the Respondent lived in the property with his son who was in his late teens or early twenties. Mr Hall understood that the Respondent was in full time employment and ought to have been able to pay rent although the Respondent had said he had been ill from time to time and had not been paid.
9. Mr Hall asked the Tribunal to grant an order for eviction.

Findings in Fact

10. The Respondent commenced a Private Residential Tenancy of the property on 14 August 2021.
11. A Notice to Leave under Ground 12 of Schedule 3 of the 2016 Act was served on the Respondent on 6 September 2023.

12. At the date of service of the Notice to Leave the Respondent owed rent amounting to £3370.00.
13. A Section 11 Notice was sent to Perth & Kinross Council on 9 October 2023.
14. The Applicant's representatives sent pre-action letters to the Respondent dated 14 and 22 September 2023.
15. The rent due by the Respondent at the date of the CMD was £3920.00.
16. The Applicant has a standard security over the property that requires to be paid by him.
17. The Respondent lives in the property with his son.
18. The Respondent is thought to be in employment.

Reasons for Decision

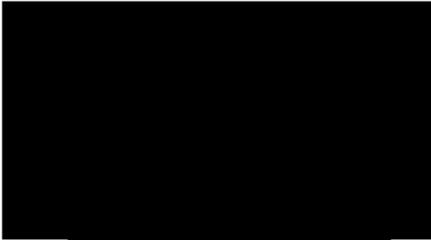
19. The Tribunal was satisfied from the documents submitted and the oral submissions of Mr Hall that the parties entered into a Private Residential tenancy that commenced on 14 August 2021 at a rent of £625 per calendar month. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Ground 12 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to Perth & Kinross Council by way of a Section 11 Notice. The Tribunal was also satisfied from the documents produced and the oral submissions that the Respondent had fallen into very substantial rent arrears and as at the date of the CMD owed rent amounting to £3920.00. Although with some assistance from his father the Respondent had in the latter part of 2023 managed to reduce the amount due the Respondent had only paid £250.00 rent in 2024 with no rent being paid at all since January.
20. The Tribunal was satisfied that procedurally the criteria for granting an order for the eviction of the Respondent from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal took account of the fact that despite being given an opportunity to submit written representations and also to attend the CMD the Respondent chose to do neither. The Tribunal also took into account that the Respondent owed more than the equivalent of six months' rent and that the loss of income was having a substantial impact on the Applicant's finances as he had to service the standard security over the property in addition to the other costs associated with being a landlord. Although being evicted would undoubtedly have an adverse impact upon the Respondent and his son the Tribunal was satisfied given the level of debt that it was reasonable to grant the order sought.

Decision

21. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing finds the Applicant entitled to an order for the eviction of the Respondent from the property.

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.



7 March 2024