



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/23/3659

Re: Property at 34A Fairfield Road, Sauchie, Clackmannanshire, FK10 3DB (“the Property”)

Parties:

Mr Alan Black, 32 Bank Street, Alloa, Clackmannanshire, FK10 1HH (“the Applicant”)

Miss Alana Bell, 34A Fairfield Road, Sauchie, Clackmannanshire, FK10 3DB (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Mike Links (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 11 October 2023 the Applicant applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Grounds 12 and 12A of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant submitted a copy of a Notice to Leave, Section 11 Notice, a rent statement and pre-action letters in support of the application.
2. By Notice of Acceptance dated 4 January 2024 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 6 March 2024. The Applicant attended in person supported by his sister Ms Sarah Black. The Respondent did not attend nor was she represented. The Tribunal being satisfied that proper intimation of the CMD had been given to the Respondent determined to proceed in her absence.
5. The Tribunal noted that there was not a copy of the tenancy agreement with the case papers and the Applicant, during the course of the CMD, arranged for the Applicant's letting agents, Martin & Co to forward a copy by email for onward transmission to the Tribunal.
6. The Tribunal noted that other than a single payment of £600.00 paid by the Respondent in February 2024 the Respondent had paid no rent since December 2022 and the current amount of rent due amounted to £7118.00.
7. The Tribunal noted that the loss of rent had adversely affected the Applicant's mental health as the rent was his only source of income. The Tribunal noted that due to health issues the Applicant was unable to work but had in the past earned an income from investments. He was now being supported financially by his family and wished to recover the property so that it could be sold to raise capital and clear his debts. The Tribunal noted that the property required repairs to the roof but that the Respondent had refused access and the Applicant also had concerns that the Respondent was not properly maintaining the property as she should.
8. The Tribunal was advised that the Respondent had never made any complaints to the Applicant or his letting agents about the condition of the property or suggested that rent was being withheld.
9. The Tribunal was advised that the Respondent lived in the property with her two adult children and was believed to be in employment.
10. The Applicant asked the Tribunal to grant the order sought.

Findings in Fact

11. The Respondent commenced a Private Residential Tenancy of the property on 7 February 2019 at a rent of £560.00 per calendar month.
12. A Notice to Leave under Grounds 12 and 12A of Schedule 3 of the 2016 Act was served on the Respondent on 14 June 2023.

13. A Section 11 Notice was sent to Clackmannanshire Council by the Applicant.
14. The Applicant suffers from ill health and is unable to work.
15. The Applicant is struggling to meet his financial outgoings and is dependent upon support from his family and requires to sell the property to clear his debts and meet his living costs.
16. The Respondent has accrued the equivalent of more than 12 months arrears of rent and owes the Applicant £7118.00.
17. The Respondent is believed to be in employment.
18. The Respondent lives in the property with her two adult children.

Reasons for Decision

19. The Tribunal was satisfied from the documents submitted and the oral submissions that the parties entered into a Private Residential tenancy that commenced on 7 February 2019 at a rent of £560.00 per calendar month. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Ground 1 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to Clackmannanshire Council by way of a Section 11 Notice. The Tribunal was also satisfied from the documents produced that the Respondent was provided with appropriate pre-action letters.
20. The Tribunal was therefore 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 noted that despite being given an opportunity to submit written representations to the Tribunal and to attend the CMD the Respondent had chosen to do neither. Nevertheless, the Tribunal still had to balance the needs of the Applicant with the needs of the Respondent in arriving at a decision. On the one hand there was the Applicant who due to ill health was unable to work and was dependent upon the income from the property and in the absence of that income his mental health had deteriorated. Against that the Tribunal was told that the Respondent may have two jobs and was definitely employed and was living in the property with two adult children. The Tribunal was also told that the Respondent had not made any complaints about the condition of the property and had made it difficult for the Applicant's contractors to access the property.
21. After careful consideration of the Applicant's circumstances and such of the Respondent's circumstances as it could ascertain, the Tribunal was satisfied

that it was reasonable to grant an order for the eviction of the Respondent from the property. In terms of Grounds 12 and 12A of Schedule 3 of the 2016 Act.

Decision

22. 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.

**Graham Harding
Legal Member/Chair**

**6 March 2024
Date**