



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/23/3033

Property : G/R 76 B Clepington Road, Dundee DD3 7SW (“Property”)

Parties:

Quarry Management Investment Co Ltd, Quarry Cottage, Main Street, Inchtore PH14 9RN (“Applicant”)

Dymock Properties Ltd, 12b Riverside Court, Mayo Avenue, Dundee DD2 1XD (“Applicant’s Representative”)

Teghan Williamson, G/R 76 B Clepington Road, Dundee DD3 7SW (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined that an order for possession of the Property should be made.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Private Residential Tenancy between the Applicant and the Respondent dated 7 and 8 March 2022 which commenced on 7 March 2022; Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 (“Act”) dated 30 May 2023 (“Notice to Leave”) in which the ground for eviction was ground 12 and 12A; copy email from Mel Matthew dated 20 December 2023 in which she stated that she delivered the Notice to Leave to the Respondent by hand on 30 May 2023; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 31 August 2023 and rent statement. The Tribunal had sight of a certificate of service by sheriff officer evidencing service of the Application on the Respondent on 1 March 2024

Case Management Discussion

A Case Management Discussion took place before the Tribunal on 9 April 2024 by teleconference. The Applicant was in attendance and was represented by Neil Dymock of the Applicant's Representative. There was no appearance by the Respondent.

Mr Dymock told the Tribunal that the rent arrears were now £7077.10. He said there had been no recent contact with the Respondent. He said the Respondent is 35 years old and lives in the Property alone. He said he was unaware of any disabilities or vulnerabilities. He said he had tried to obtain payment of rent direct from universal credit without success. He said he did not know if the Respondent was in receipt of or entitled to any benefits.

The Tribunal asked about compliance with the pre-action requirements. Mr Dymock referred the tribunal to letters issued in July and August 2023 providing a rent statement and looking to put in place a payment plan. He explained that the letters contained information about tenants rights and sign posting to organisations that could assist.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement dated 7 and 8 March 2022 which commenced on 7 March 2022 ("Tenancy Agreement").
2. The Notice to Leave was served by personal delivery on 30 May 2023.
3. At the date of service of the Notice to Leave the cumulative amount of rent arrears equated to or exceeded an amount that is the equivalent of 6 months' rent under the Tenancy Agreement.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 31 August 2023.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51 of the Act, the First-tier Tribunal may 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. In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 12 and 12A. Ground 12 is

that the tenant has been in rent arrears for 3 or more consecutive months. Ground 12A states :

- (1) *It is an eviction ground that the tenant has substantial rent arrears.*
- (2) *The First-tier Tribunal may find that the ground named in paragraph 1 applies if –*
 - (a) *the tenant has accrued rent arrears under the tenancy agreement in respect of one or more periods,*
 - (b) *the cumulative amount of those rent arrears equates to, or exceeds, an amount that is the equivalent of 6 months' rent under the tenancy agreement when notice to leave is given to the tenant on this ground in accordance with section 52(3), and*
 - (c) *the tribunal is satisfied that it is reasonable to issue an eviction order*

The Tribunal considered the statement of rent arrears provided and determined that the grounds for eviction had been established. In the absence of any submission by the Respondent that it would not be reasonable to grant an order for eviction, and in light of the submission made by the Applicant's Representative, the Tribunal determined that it was reasonable to issue an eviction order.

Decision

The Tribunal grants an order for possession of 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.

J Devine

Date : 9 April 2024