



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/23/4496

Re: Property at 3 Lewis Rise, Irvine KA11 1HH (“the Property”)

Parties:

Mr Craig Miller, 25 John Parker Avenue, Irvine, KA11 4FE (“the Applicant”)

Campbell Szwedowski, 3 Lewis Rise, Irvine, KA11 1HH (“the Respondent”)

Tribunal Members:

Mark Thorley (Legal Member) and Janine Green (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order of eviction be granted

Background

1. The parties entered into a private residential tenancy which commenced on 1 February 2023 with a rental payment of £695 per month.
2. By application dated 11 December 2023 the Applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) along with a Rent Ledger, copy Notice, proof of service of the Notice and Section 11 Notice. It was narrated that the Applicant in terms of ground 12 was in rent arrears of three consecutive months or more having not paid rent since 1 July 2023.
3. The application was acknowledged on 14 December 2023 and accepted for determination on 17 January 2024.
4. The application was served by sheriff officers on 27 February 2024 by depositing at the address at 3 Lewis Rise, Irvine.

5. No written representations were received from the Respondent.

Case Management Discussion

6. At the case management discussion Mr Kelvin Walker from Messrs Kilpatrick & Walker Solicitors in Ayr attended on behalf of the Applicant. There was no appearance by or for the Respondent.

7. At the case management discussion it was noted that arrears had continued to accrue. Arrears were now at £6,950.

8. It was narrated that the Respondent was in his early 20s. He had lived at the property with his partner but he and his partner had split up. There were no children. He had not communicated any reason as to why he was not paying rent. It appeared that he was still able to take holidays.

Findings in Fact

9. That the parties entered into a Private Residential Tenancy Agreement in respect of the property at 3 Lewis Rise, Irvine KA11 1HH.

10. That the Tenancy Agreement commenced on 1 February 2023 with a rental payment due of £695 per month.

11. That rent had not been paid since 1 July 2023.

12. As at the date of the case management discussion on 5 April 2024 arrears were standing at £6,950.

13. Rent arrears have existed for more than three consecutive months.

Reasons for decision

14. The paperwork as lodged by the Applicant through his representative was in order. The pre-action protocol had been undertaken.

15. The paperwork showed that the Respondent had not paid any rent since 1 July 2023. At the time of the application rent had not been paid on 1 August 2023, 1 September 2023 and 1 October 2023.

16. Mr Walker the representative for the Applicant was also able to confirm that subsequent to that no rent had been paid. The outstanding rent was now £6,950. Rent had not been paid of nine consecutive months.

17. No reasons were provided by the Respondent. He had not engaged with the process. He had not engaged with the landlord. He had provided no written representations.

18. In terms of reasonableness it appeared that he was a man in his early 20s who had split up from a partner. There were no children. No reason was being given why

he had not been able to pay the rent nor had he responded to any offers made to set up a payment plan for the arrears.

19. The Tribunal accepted the written evidence and the oral submissions provided by Mr Walker. Rent had not been paid for considerably more than three months. It was not unreasonable to grant the order.

Decision

To order for eviction was granted.

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.

05/04/2024

Legal Member/Chair

Date