



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/23/4220

Property : 174 Cedar Road, Cumbernauld G67 3BJ (“Property”)

Parties:

LDK Properties Ltd, 4 Norman Macleod Crescent, Glasgow G61 3BF (“Applicant”)

Chloe Reilly, 174 Cedar Road, Cumbernauld G67 3BJ (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member) and Ahsan Khan (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 September 2022 which commenced on 7 September 2022; Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 19 October 2023 ("Notice to Leave") in which the ground for eviction was ground 11 and 12; copy email from the Applicant to the Respondent dated 19 October 2023 attaching the Notice to Leave; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 27 November 2023; letter to the Applicant from North Lanarkshire Council dated 10 October 2023 attaching photograph of refuse outside the Property; rent statement and copy letter from the Applicant to the Respondent dated 31 January 2023 regarding rent arrears. The Tribunal had sight of a certificate of service by sheriff officer evidencing service of the Application on the Respondent on 18 March 2024

Case Management Discussion

A Case Management Discussion took place before the Tribunal on 24 April 2024 by teleconference. The Applicant was represented by Alison Kennedy. The Respondent was in attendance along with a supporter, Mr Fisher.

The Respondent told the Tribunal that she did not oppose the Application. She said she accepted that the rent arrears were £2359.39 at the date of service of the Notice to Leave and that excessive refuse was left on the Property. She said that she lived in the Property with her 3 children aged 11, 6 and 5. She said she was being supported by her advocacy worker and a social worker to identify alternative accommodation. She said that her housing benefits had been paid into her ex-partner's bank account and she had to stop them and re-apply to have them paid into her account. She said she was now in receipt of universal credit.

Mrs Kennedy told the Tribunal that the rent arrears were now £4574. She said that she had received payments from universal credit for February, March and April but they did not cover the monthly rent.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement dated 7 September 2022 which commenced on 7 September 2022 ("Tenancy Agreement").
2. The Notice to Leave was served by email on 19 October 2023.
3. At the date of service of the Notice to Leave the rent had been in arrears for three or more consecutive months.
4. Excessive refuse had been left on the Property in breach of clause 30 of the Tenancy Agreement.
5. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 27 November 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 11 and 12. Ground 11 is that the tenant has failed to comply with an obligation under the tenancy. Ground 12 is that the tenant has been in rent arrears for 3 or more consecutive months.

In terms of clause 30 of the Tenancy Agreement the Respondent undertook to dispose of or recycle all rubbish in an appropriate manner. The Tribunal considered the letter from North Lanarkshire council dated 10 October 2023 and determined that the ground 11 for eviction had been established. This was not disputed by the Respondent.

The Tribunal considered the statement of rent arrears provided and determined that the ground 12 for eviction had been established. This was not disputed by the Respondent.

In the circumstances of the case, 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.

Legal Member

Date: 24 April 2024

Joan Devine