



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/24/0403

Re: Property at 62 Corbieshot, Edinburgh, EH15 3RZ (“the Property”)

Parties:

Ijeoma Edoke, 15 Worthington Grove, Hampton Water, Peterborough, PE7 8SH (“the Applicant”)

Emma Smith, 62 Corbieshot, Edinburgh, EH15 3RZ (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Helen Barclay (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 24 January 2024 the Applicant’s representatives, Gilson Gray LLP, Solicitors, Edinburgh, applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Grounds 11 and 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant’s representatives submitted a copy of a tenancy agreement, Notice to Leave with proof of service, pre-action letters. Section 11 Notice, together with other documents in support of the application.
2. By Notice of Acceptance dated 28 March 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 23 April 2024.

The Case Management Discussion

4. A CMD was held by teleconference on 31 January 2024. The Applicant did not attend but was represented by Mr David Gray from the Applicant's representatives. The Respondent did not attend nor was she represented. The Tribunal being satisfied that proper intimation of the CMD having been given to the Respondent determined to proceed in her absence.
5. The Tribunal noted that the Respondent had commenced her tenancy of the property on 13 August 2021 and had fallen into arrears that had amounted to £1603.80 at the time of service of a Notice to Leave on 21 November 2023 and that the arrears currently amounted to £6949.50. The Tribunal also noted that the Applicant was seeking the eviction of the Respondent under Ground 11 of Schedule 3 of the 2016 Act in respect of various breaches of the tenancy agreement including smoking in the property, keeping dogs without permission, not allowing access to tradesmen, possible subletting or having another resident in the property and being abusive towards a contractor.
6. The Tribunal noted that a Section 11 Notice had been sent to Edinburgh City Council by email on 23 January 2024 and that the Applicant's letting agents had sent pre-action emails to the Respondent in September and November 2023.
7. Mr Gray advised the Tribunal that the Applicant only had one rental property and was not a commercial landlord. He explained that the Applicant was living in rented accommodation and was having to meet the mortgage on the property of £677.00 per month from her income as well as pay her rent and other outgoings and that this was putting a significant strain on her finances to the extent that she had to suspend payment into her pension scheme.
8. Mr Gray advised the Tribunal that the only information he had about the Respondent was that she was 45 years old and believed to be unemployed. It was thought that her partner was living in the property although the Respondent had said he was only staying there three days a week. Mr Gray confirmed there were no children living in the property.
9. Mr Gray submitted that it was reasonable that an order for eviction be granted.

Findings in Fact

10. The Respondent commenced a Private Residential Tenancy of the property on 13 August 2021.

11. A Notice to Leave under Grounds 11 and 12 of Schedule 3 of the 2016 Act was served on the Respondent on 21 November 2023.
12. At the date of service of the Notice to Leave the Respondent had arrears of rent over three consecutive months and owed rent of £1603.80.
13. The Respondent was in breach of the tenancy agreement by smoking in the property, keeping pets without permission and refusing access to letting agents and tradesmen
14. A Section 11 Notice was sent to Edinburgh City Council on 23 January 2024.
15. Pre-action emails were sent to the Respondent by the Applicant's letting agents in September and November 2023.
16. At the date of the CMD the Respondent owed rent amounting to £6949.50
17. The Applicant is experiencing financial hardship as a result of the failure of the Respondent to pay rent.

Reasons for Decision

18. The Tribunal was satisfied from the documents submitted and the oral submissions from Mr Gray that the parties entered into a Private Residential tenancy that commenced on 13 August 2021. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Grounds 11 and 12 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to Edinburgh City Council by way of a Section 11 Notice. The Tribunal was also satisfied from the documents produced that pre-action emails had been sent to the Respondent by the Applicant's letting agents and that since service of the Notice to Leave the rent arrears had continued to rise. The Tribunal was also satisfied from the oral submissions and documents produced that the Respondent was in breach of the terms of the tenancy agreement in that there was evidence of smoking in the property and keeping dogs without permission and refusing access to for inspection and to tradesmen.
19. 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 and to attend the CMD the Respondent had chosen to do neither. The Tribunal also

took account of the very substantial level of rent arrears that had accrued and the difficulty this was causing the Applicant.

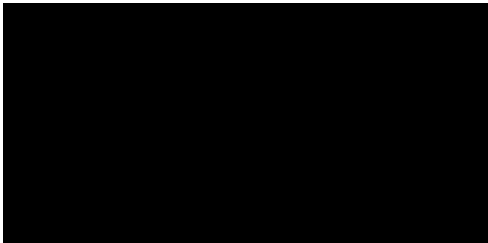
20. After carefully considering the circumstances, the Tribunal was satisfied that it was reasonable to grant the order sought by the Applicant.

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.



**Graham Harding
Legal Member/Chair**

**22 May 2024
Date**