



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) Act 2016

Chamber Ref: FTS/HPC/EV/23/4014

Re: Property at 59 Lomond Way, Inverness, IV3 8NZ (“the Property”)

Parties:

Mrs Freda Hughes Matheson, 36 Midtown, Inverasdale, Poolewe, Ross-shire, IV22 2LW (“the Applicant”)

Harry Roberts, 59 Lomond Way, Inverness, IV3 8NZ (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction.

Background

1. By application dated 13 November 2023 the applicant seeks an order for eviction, relying on grounds 12 in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Notice to Leave and Guidance
 - Proof of delivery of notice to leave
 - Pre-action requirement letters
 - Rent schedule
 - Notice under section 11 of the Homelessness Etc. (Scotland) Act 2003

Case management discussion – teleconference – 20th May 2024

3. The applicant was represented by Mr Smith, solicitor from South Forrest Solicitors. The respondents were not present or represented. The Tribunal was satisfied that the respondents had received proper notice of the cmd and proceeded with the cmd in their absence in terms of rule 29.
4. Ms Smith sought an order for eviction the basis of rent arrears. Mr Smith advised the Tribunal that outstanding arrears had increased to £12,080. He explained that no payments had been made to the rent account since September 2023. Mr Smith advised that as far as he was aware the respondent had not at any time been in receipt of benefits to cover the cost of the rent payments and accordingly the arrears were not due to any issue with benefits payments. Mr Smith explained that the pattern of rent payments by the respondent had been sporadic and whilst rent had been paid throughout the duration of the tenancy at various times failure to pay the rent in full had resulted in substantial rent arrears.
5. Mr Smith advised the Tribunal that the respondent appeared to have abandoned the property. He advised that the respondent had contacted the applicant on 9th May 2024 via a photo message. The photograph in the message showed the door to the property with the keys left in the door. Mr Smith advised that a subsequent check on the property showed that most of the respondent's property appeared to have been removed from the property. He explained that no attempt had been made to secure the property by changing the locks as it was not clear that the tenant would not seek to return.
6. Mr Smith advised that so far as he was aware the applicant resided alone in the property.
7. Mr Smith stated that the large amount of rent arrears had a financial impact on the applicant who was deprived of that income and continued to have the expenses associated with renting out a property and now recovering the property.

Findings in fact

8. Parties entered into a Private Residential Tenancy agreement with a commencement date of 1st April 2019.
9. The monthly rent due is £600.

10. Notice to leave was served on 6th October 2023. As at that date rent arrears were £7480.
11. Arrears as at the date of the cmd amounted to £12080.
12. Ground 12 in schedule 3 of the 2016 Act is established.
13. It is reasonable to grant an order for eviction

Reasons for the decision

14. The Tribunal had regard to the application and the documents lodged by the applicant. The Tribunal also took into account oral submissions at the cmd.
15. The Tribunal took into account that the respondent had not lodged any written response to the application or sought to oppose an order for eviction.
16. The Tribunal accepted that the arrears were £12080 at the date of the cmd. The applicant's representative had produced documents including a rent schedule summarising payments that had been made. The Tribunal had no reason to doubt the accuracy of the rent schedule. The Tribunal also accepted the evidence from Mr Smith that the tenant had already vacated the property albeit without providing proper written notice.
17. The Tribunal gave considerable weight to the fact that arrears were increasing and were £12080 at the time of the cmd. It was likely that arrears would continue to rise as the respondents had taken no steps to address the arrears and had paid nothing since September 2023.
18. In the foregoing circumstances the Tribunal determined that it was reasonable to grant an order for eviction.

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.

Mary Claire Kelly

Legal Member/Chair

20th May 2024
Date