



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/24/1142

Property : 21 Montgomery Street, Larkhall ML9 2AA (“Property”)

Parties:

Dr Paul Hare, 25 The Glade, Larkhall ML9 2JA (“Applicant”)

GBS Lets, 82 Union Street, Larkhall ML9 1DR (“Applicant’s Representative”)

John Ross Dunn, 21 Montgomery Street, Larkhall ML9 2AA (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member), Mary Lyden (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.

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Private Tenancy Agreement which commenced on 26 July 2021; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 8 January 2024 ("Notice to Leave"); a copy of an email from the Applicant’s Representative to the Respondent attaching the Notice to Leave dated 8 January 2024; rent statement and notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 8 March 2024 and copy emails from Applicant’s Representative to the Respondent regarding rent arrears dated 18 January and 5 February 2024. The Tribunal had sight of a sheriff officer’s execution of service certifying service of the Application on the Respondent on 19 April 2024. On 18 April 2024 the Applicant’s Representative lodged an updated statement of rent arrears.

Case Management Discussion (“CMD”)

A CMD took place before the Tribunal on 31 May 2024 by teleconference. The Applicant was represented by Barry Munro of the Applicant’s Representative. The Respondent was not in attendance.

Mr Munro told the Tribunal that there had been no recent contact with the Respondent. He said the Property was a one bedroom property and he understood the Respondent lived there alone. He said the Respondent is aged around 40 and is employed as a heating engineer. He said the arrears had been a problem since early on in the tenancy. He said the last time there had been a "zero" balance was December 2022.

Mr Munro said that the Applicant has a mortgage on the Property and cannot afford to not be receiving rent. He said this is the only rental property owned by the Applicant. He did not know if he may now sell the Property. Mr Munro said that the Respondent was introduced to him by Y People who are a charity who help people arrange housing. He said they carry out checks on prospective tenants. He said that he had also carried out pre-tenancy checks such as a credit check.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement which commenced on 26 July 2021 ("Tenancy Agreement").
2. The Notice to Leave was served by email on 8 January 2024.
3. At the date of service of the Notice to Leave and the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 8 March 2024.

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 Notice to Leave the Applicant stated that they sought recovery of possession of the Property on the basis set out in ground 12 which is that the tenant has been in rent arrears for three or more consecutive months.

The Tribunal considered the statement of rent arrears provided and determined that ground 12 had been established. Having considered all of the circumstances, and in the absence of a submission from the Respondent, 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

**Joan Devine
Legal Member**

Date : 31 May 2024