



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/24/0263

Re: Property at 5B High Street, Dysart, Fife, KY1 2UG (“the Property”)

Parties:

Mr Edward Cleave, 2 Bowhouse Drive, Kirkcaldy, Fife, KY1 1SB (“the Applicant”)

MALGORZATA PASTERNAK, 5B High Street, Dysart, Fife, KY1 2UG (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Tony Cain (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought to evict the Respondent from the property.

Background

1. The Applicant submitted an application under Rule 109 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondent from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 30 April 2024 informing both parties that a CMD had been assigned for 6 June 2024 at 10am, which was to take place by conference call. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers

the procedure to have been fair. The Respondent was invited to make written representations by 21 May 2024. No written representations were received by the Tribunal.

The case management discussion – 6 June 2024

4. The CMD took place by conference call. The Applicant was represented by Mrs Helen Couser. The Respondent did not join the conference call and the discussion proceeded in her absence. The Applicant's representative explained that rent arrears remain at £2,351.81. Although the Respondent has been making payments to the rent account recently, she has been in arrears of rent consistently since March 2023. The Respondent has made no arrangement to address payment of the arrears of rent. The Applicant's representative has attempted various means of contact with the Respondent but she has failed to engage with them. The Respondent lives alone at the property. It is not known whether she is in employment.

Findings in Fact

5. The parties entered into a private residential tenancy which commenced 5 December 2017.
6. The Applicant served Notice to Leave on the Respondent by email on 10 July 2023.
7. The Applicant served a section 11 Notice on the local authority on 16 January 2024.
8. The Respondent has been in rent arrears for more than three consecutive months.

Reason for Decision

9. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicant relied upon ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016. The Respondent failed to participate in the CMD and failed to lodge any written representations. The information before the Tribunal was that the Respondent has been consistently in arrears of rent since March 2023 and prior to that, the Respondent was in rent arrears since July 2020. The level of rent arrears equates to more than 8 months of rent. There was no material before the Tribunal to indicate that the Respondent disputed the rent arrears. The Tribunal was satisfied that ground 12 was established. The Respondent has been given fair notice of these proceedings. She has failed to pay 8 months' worth of rent and has not made any proposals for payment. The tenancy appears to be unaffordable to the Respondent. In these circumstances, the Tribunal was satisfied that it was reasonable to grant the 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.

Nicola Irvine

Legal Member/Chair

6 June 2024
Date