



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/24/0170

Re: Property at 3 Church Place, Ardrossan, KA22 8DS (“the Property”)

Parties:

Mr Gianpiero Narducci, 5 South Crescent Road, ARDROSSAN, KA22 8DU (“the Applicant”)

Ms Danielle McLaughlan, 3 Church Place, Ardrossan, KA22 8DS (“the Respondent”)

Tribunal Members:

Lesley-Anne Mulholland (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Eviction be granted against the Respondent.

INTRODUCTION

1. This is an application under Rule 109 and Section 51 of the Private Housing (Scotland) Act 2016 for an Eviction Order under Ground 12 of Schedule 3.
2. The Applicant is the Landlord and owner of the property. The Respondent is the Tenant. They entered into a Private Tenancy Agreement whereby the Respondent agreed to pay rent of £600 each calendar month, payable in advance.

3. The Applicant asserts that the Respondent has accrued rent arrears in the sum of £11,688.85. The ground for the eviction order relied upon by the Applicant is Ground 12 which provides the Tribunal with discretion to grant the eviction order if we were satisfied that rent arrears had accrued of more than three months and it was reasonable to grant the order.
4. A two-member Case Management Discussion took place at 10.00 am on 31 May 2024 by teleconference. The Applicant's wife, Mrs Narducci and Representative, Mr Caldwell joined the hearing.
5. The Respondent has failed to engage with the application. We decided to continue with the hearing in her absence after satisfying ourselves that the papers had been properly served on the Respondent, that she was notified of today's CMD and having regard to the overriding objective, it was fair and just to do so.
6. Mr Caldwell informed us that rent arrears started to accrue from the outset. Initially there was some payment by the Local Authority, North Ayrshire Council, in respect of Housing Benefit but there was an underpayment that was not met by the Respondent. The Respondent did not make any attempt to meet the shortfall over the course of the Tenancy. Latterly, the Respondent started to pay £700 per month but the arrears by then were in excess of £8,000.
7. The Applicant and his wife are in their 80s and require the income from the rental property for their retirement. The property is making a loss and is a liability for them. They intend to exit the rental market.
8. At the time of the application on 12 January 2024, the arrears were in excess of £9,000 however the rent arrears figure, served on the Respondent at least 14 days before today's hearing, stands at £11,688.85. The last payment made by the Tenant was in November 2023 in the sum of £700. There have been no payments since then.
9. No information is known about the Respondent other than she is in her mid 40s and has two children. The property is a semi-detached new build property. Albeit there is no sign of the Respondent being at the property, the keys have not been handed in and there is a car there which indicates that she has not vacated the property. The Respondent uses social media and has been posting images of her new furniture for her new property but beyond that it cannot be said that the Tenancy has come to an end until such times as she hands in the keys. The Applicant does not wish to enter the property without an Order.
10. The Applicant has two other rental properties and similar to this situation, only one tenant is paying and the other is not. The Applicant and his wife intend to

sell the property as, despite the Respondent not paying rent, they are still obliged to ensure that the property is insured, maintained and the safety certificates in place.

11. We were satisfied that the Applicant is entitled to the payment of £600 per calendar month and that significant rent arrears have accrued over a significant period of time, such that it is reasonable to grant the Order.
12. As at the current date, the amount of rent arrears totals £11,688.85. The Respondent has expressed no intention of paying that sum. Her actions in this respect are unreasonable.
13. As stated before, we were satisfied that the Respondent has failed to engage with the application in anyway. For that reason, we have no information before us to indicate that there are any particular such circumstances to find that the granting of the Order would not be reasonable.
14. We were satisfied that the making of an Eviction Order was reasonable in all of the circumstances, having regard to all the information before us.

CONCLUSION

15. An Order for Eviction is granted.

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.

Lesley-Anne Mulholland

31 May 2024

Legal Member/Chair

Date