



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 (“The Act”)

Chamber Ref: FTS/HPC/EV/24/0514

Re: Property at 46C North Street, Inverurie, AB51 4RS (“the Property”)

Parties:

Ms Linda Duncan, Nether Balfour, Forbes, Alford, AB33 8PS (“the Applicant”)

Mr Ian James Rattray, 46C North Street, Inverurie, AB51 4RS (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Mary Lyden (Ordinary Member)

Decision

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order.

Background

[2] The Applicant seeks an Eviction Order under ground 12A of Schedule 3 of the Act. The Application is accompanied by a copy of the relevant tenancy agreement, the notice to leave with proof of service, the relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 and a rent statement. There is also evidence of compliance with *The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020*.

The Case Management Discussion

[3] The Application called for a Case Management Discussion (“CMD”), by conference call at 10 AM on 13 June 2024. The Applicant was represented by Mr McCann of Jackson Boyd LLP. The Respondent was personally present with his mother, Ms Paula Stephen who he wished to act as his representative. Ms Stephen had submitted some representations outlining the Respondent’s position in respect of the Application and these had been circulated to the Applicant in advance of the CMD. There were no other preliminary matters to raise.

[4] Ms Stephen helpfully explained the Respondent’s position. He had drug and alcohol issues. He had lost his job. He lived alone in the Property and had accrued large rent arrears. It was explained that the Respondent was not opposed to the Application being granted and had only remained in the Property to avoid being classed as voluntarily homeless which might prejudice the assistance his local authority would give him. Mr McCann invited the Tribunal to grant the Eviction Order. Having heard from parties and having considered the whole facts and circumstances of the case, the Tribunal made the following findings in fact. Mr McCann invited the Tribunal to grant the Eviction Order.

Findings in Fact

- I. *The Applicant let the Property to the Respondent by virtue of a Private Residential tenancy within the meaning of the Act;*
- II. *The Respondent fell into rent arrears and the sum of £6,017.37 is now lawfully due as arrears of rent by the Respondent to the Applicant;*
- III. *The Applicant has signposted the Respondent to sources of financial support;*
- IV. *The Applicant competently served a notice to leave under ground 12A of Schedule 3 of the Act. Ground 12A was established at the date of service of the notice to leave and remains established as at today’s date;*
- V. *The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003 and The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;*
- VI. *The Respondent does not oppose the Application and wishes support from the local authority to find alternate accommodation.*

VII. *The Respondent has continuously misused state benefits intended for his accommodation costs for other purposes. This has caused the Applicant financial hardship.*

Reasons for Decision

[5] Having made the above findings in fact, the Tribunal considered that the ground set out in the notice to leave was established. The Tribunal also considered that it was reasonable to make an Eviction Order. The Tribunal therefore granted the Application and made an Eviction Order.

Right of Appeal

[6] 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.

Andrew McLaughlin

Legal Member/Chair

13 June 2024

Date