



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/24/1263

Re: Property at 2 Heatherstane Walk, Irvine, North Ayrshire, KA11 1EA (“the Property”)

Parties:

Easton Property Limited, 2 Newfield Drive, Dundonald, South Ayrshire, KA2 9EW (“the Applicants”)

Mr Stephen Bryden, 2 Heatherstane Walk, Irvine, North Ayrshire, KA11 1EA (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.

Background

1. By application, dated 15 March 2024, the Applicants sought an Order for Possession of the Property under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 12A of Schedule 3 to the 2016 Act, namely that the Respondent has substantial rent arrears, and the cumulative amount of those rent arrears equates to, or exceeds, an amount that is the equivalent of 6 months’ rent.
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties, commencing on 9 December 2020 at a monthly rent of £475, a Rent Statement showing arrears as at 15 March 2024 of £4,275, with no payments having been made since 31 October 2023, and a Notice to Leave, dated 13 February 2024, advising the Respondent that the Applicants were seeking an Eviction Order under Ground 12A of Schedule 3

to the 2016 Act and that an application to the Tribunal would not be made before 15 March 2024. The Notice to Leave stated that the arrears stood at £3,800. The Applicants also provided a copy of a Pre-Action Requirements letter sent to the Respondent regarding the arrears at 13 February 2024 and signposting him to possible sources of help and advice.

3. On 1 July 2024, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 22 July 2024. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the morning of 8 August 2024. The Applicants were represented by their Property Manager, Miss Aynsley Barclay. The Respondent was not present or represented.
5. The Applicants told the Tribunal that no payments of rent had been received since the date of the application and that the arrears now stand at £6,175. Miss Barclay understood that the Respondent lives in the Property on his own. Communication with him had been very difficult. He had stated in an email in February 2024 that he would pay £500 towards the arrears on 8 February 2024 and clear the arrears by 29 February 2024, but no payment had been received from him since 31 October 2023. She contended that it was reasonable to issue an Eviction Order.

Reasons for Decision

6. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
7. Section 51 of the 2016 Act states that the Tribunal is to 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.
8. Ground 12A of Schedule 3 to the Act states that it is an Eviction Ground that the tenant is in substantial rent arrears and that the Tribunal may find that Ground 12A applies if the tenant has accrued rent arrears under the tenancy in respect of one or more periods, the cumulative amount of those rent arrears equates to, or exceeds, an amount that is the equivalent of 6 months' rent under the tenancy when Notice to Leave is given to the tenant on this Ground in accordance with section 52(3) of the Act and the Tribunal is satisfied that it is reasonable to issue an Eviction Order. In deciding whether it is reasonable to issue an Eviction Order, the Tribunal is to consider whether the tenant's being

in arrears of rent over the period or periods in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.

9. The Tribunal was satisfied that, at the date of the Notice to Leave, the rent arrears exceeded the equivalent of 6 months' rent and that no evidence had been produced to indicate that the Respondent's being in arrears of rent over the period or periods in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. The Applicants had stated that the arrears now stand at £6,175.

10. Having decided that the other requirements of Ground 12A had been met, the only matter for the Tribunal to determine was whether it was reasonable to issue an Eviction Order. The Tribunal noted that the Respondent had made no representations for the Tribunal to take into consideration in deciding whether it would be reasonable to issue an Eviction Order and that he had not engaged with the Tribunal process. He also owes more than a full year's rent and has offered no explanation regarding his personal circumstances which he would ask the Tribunal to consider. The Respondent appears to have simply stopped paying his rent, despite having been signposted by the Applicants to possible sources of help and assistance. Accordingly, having considered all the information before it, the Tribunal decided that it would be reasonable to issue an Eviction Order under Ground 12A of Schedule 3 to the 2016 Act.

11. The Tribunal's Decision was unanimous.

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.

George Clark

Legal Member/Chair

8 August 2024
Date