



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/23/4593

Re: Property at 13/1 High Street, Haddington, East Lothian, EH41 3ES (“the Property”)

Parties:

Smith Trust, Nigel Pearman, Julie Pearman, Maureen Pearman, 5, The Maltings, Haddington, East Lothian, EH41 4EF; 5 The Maltings, Haddington, East Lothian, EH41 4EF; 5 The Maltings, Haddington, East Lothian, EH41 4EF; 2 Millfield, Mill Wynd, Haddington, East Lothian, EH41 4DB (“the Applicants”)

Mr Slavcho Yankov, Mrs Violeta Yankova, 13/1 High Street, Haddington, East Lothian, EH41 3ES; 13/1 High Street, Haddington, East Lothian, EH41 3ES (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondents)

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

Background

1. The Applicants submitted an application under Rule 109 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondents 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 19 June 2024 informing both parties that a CMD had been assigned for 30 July 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 Respondents were invited to make written representations by 10 July 2024. No written representations were received by the Tribunal.

The case management discussion – 30 July 2024

4. The CMD took place by conference call. Mr Nigel Pearman, Mrs Julie Pearman and Mrs Maureen Pearman, who are trustees of the Smith Trust, joined the call. Mr Ron Pearman also joined the call as an observer. Mr Nigel Pearman spoke on behalf of the Applicants. The Respondents did not join the call and the discussion proceeded in their absence. The Tribunal explained the purpose of the CMD. Mr Pearman explained that the Applicants have had many face to face meetings with the Respondents in the hope of agreeing a repayment plan regarding the rent arrears. The Respondents did not engage in that process. The Applicants applied for payment to come directly from the Respondents' universal credit claim and they have received rent payments for the last few months, together with some additional payments. The effect of these payments is that the rent arrears have stabilised but still remain at a high level. The current rent arrears amount to £3,507.20. No payment was made in relation to July and the next payment of rent is due on Friday 2 August. It is not known whether the Respondents are in employment. They have 1 dependent living with them.

Findings in Fact

5. The parties entered into a private residential tenancy which commenced 2 October 2019.
6. The Applicants served Notice to Leave on the Respondents by recorded delivery post on 15 November 2023.
7. The Respondents have been in rent arrears for more than three consecutive months.
8. The Respondents have accrued rent arrears which equate to more than 6 months' rent.

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 grounds 12 and 12A of the Private Housing (Tenancies) (Scotland) Act 2016. The Respondents did not lodge any written representations and failed to participate in the CMD. The

information before the Tribunal was that the Respondents has been consistently in arrears of rent since September 2020. Although the Applicants have received universal credit payments to the rent account, the arrears remain high and the Respondents have not cooperated with the Applicants about payment of the rent arrears. There was no material before the Tribunal to indicate that the Respondents disputed the rent arrears. The Applicants had complied with the pre-action protocol. The Tribunal was satisfied that grounds 12 and 12A were established. The Respondents have been given fair notice of these proceedings. The equivalent of more than 8 months' rent is outstanding and the Respondents have not made any proposals for payment. The tenancy appears to be unaffordable to the Respondents. 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

30 July 2024

Date