



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/24/1415

Re: Property at 1/1 Fishwives Causeway, Edinburgh, EH15 1DP (“the Property”)

Parties:

Mr Mark MacPherson, 11 Caroline Street, St Mary's Bay, Auckland 1011, New Zealand (“the Applicant”)

Mr Muhammad Bilal, Andrea Viktoria Olah, 1/1 Fishwives Causeway, Edinburgh, EH15 1DP (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondents)

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 Respondents 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 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 12 July 2024 informing both parties that a CMD had been assigned for 16 August 2024 at 2pm, 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 2 August 2024. No written representations were received by the Tribunal.

4. On 29 July 2024, the Tribunal received an email from the Applicant's representative, attaching an updated rent statement.

The case management discussion – 16 August 2024

5. The CMD took place by conference call. The Applicant was represented by Mr Connor McConnell. The Respondents did not join the call, and the discussion proceeded in their absence. This case called alongside a related case which proceeds under chamber reference FTS/HPC/CV/24/1417. The Tribunal explained the purpose of the CMD. The Applicant's representative explained that an inspection of the Property had been arranged for 6 August 2024. The Respondents indicated that they would discuss the issue of the rent arrears at that time. However, the Respondents cancelled the inspection and a subsequent inspection which was arranged. The Respondents have not made any proposals for payment of ongoing rent or the arrears. Both Respondents were believed to be in employment at the outset of the tenancy and it is believed that they may have lost their employment in November 2023. The Respondents have been consistently in arrears of rent since October 2023 and nothing has been paid to the rent account since then. It is believed that the Respondents do not have any dependents.

Findings in Fact

6. The parties entered into a private residential tenancy which commenced 1 December 2022.
7. The Applicant served Notice to Leave on the Respondents by email on 11 January 2024.
8. The Respondents have been in arrears of rent arrears for more than 3 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 Respondents did not lodge any written representations and failed to participate in the CMD. The information before the Tribunal was that the Respondents have been consistently in arrears of rent since October 2023 and nothing has been paid since then. There was no material before the Tribunal to indicate that the Respondents disputed the rent arrears. The Applicant had complied with the

pre-action protocol. The Tribunal was satisfied that ground 12 was established. The Respondents have been given fair notice of these proceedings. Payment of rent is the Respondents' primary responsibility and they have not fulfilled that responsibility. 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

Date **16 August 2024**