



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/23/4313

Re: Property at 3 Hatchednize Farm Cottages, Coldstream, TD12 4LU (“the Property”)

Parties:

RJ Letham and Sons, Hatchednize Farmhouse, Coldstream, TD12 4LU (“the Applicant”)

Ms Kathryn Amy Irvine, 3 Hatchednize Farm Cottages, Coldstream, TD12 4LU (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

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 Respondent 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 Respondent 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 28 June 2024 informing both parties that a CMD had been assigned for 6 August 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 Respondent was invited to make written representations by 19 July 2024. No written representations were received by the Tribunal.

The case management discussion – 6 August 2024

4. The CMD took place by conference call. The Applicant was represented by Mr John Taylor, solicitor. The Respondent did not join the call and the discussion proceeded in her absence. The Tribunal explained the purpose of the CMD. The Applicant's representative explained that any attempts he has made to contact the Respondent have not elicited a response. The Respondent has not made any payments to the rent account since this application was presented. The current level of rent arrears is £10,500. The Respondent is believed to be in employment. The Applicant is aware that the Respondent has a son but the indication in correspondence is that he has moved out of the Property.

Findings in Fact

5. The parties entered into a private residential tenancy which commenced 8 February 2020.
6. The Applicant served Notice to Leave on the Respondent by email on 10 July 2023.
7. The Respondent has been in rent arrears for more than three consecutive months.
8. The Respondent has 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 Respondent did not lodge any written representations and failed to participate in the CMD. The information before the Tribunal was that the Respondent has been consistently in arrears of rent since July 2022. The email correspondence lodged by the Applicant demonstrates that the Respondent had no intention of meeting her primary obligation to pay rent. There was no material before the Tribunal to indicate that the Respondent disputed the rent arrears. The Applicant had complied with the pre-action protocol. The Tribunal was satisfied that grounds 12 and 12A were established. The Respondent has been given fair notice of these proceedings. The equivalent of 25 months' rent is outstanding and the Respondent has not made any proposals for payment. The tenancy is

unsustainable. 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.

N. Irvine

Legal Member/Chair

Date 6 August 2024