



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/24/0908

Property : 24 Bothwell House, The Furlongs, Hamilton ML3 ODQ (“Property”)

Parties:

Granite Valley Ltd, 23 Townhead Street, Hamilton ML3 7BQ (“Applicant”)

Stonevale Lettings Ltd, 23 Townhead Street, Hamilton ML3 7BQ (“Applicant’s Representative”)

Victoria Ibadapo-Euba, 24 Bothwell House, The Furlongs, Hamilton ML3 ODQ (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Leslie Forrest (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined that an order for possession of the Property should be made.

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Private Tenancy Agreement dated 26 May 2018; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 (“Act”) dated 30 November 2023 (“Notice to Leave”); a copy of an email from the Applicant’s Representative to the Respondent attaching the Notice to Leave dated 30 November 2023; rent statement; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 22 February 2024 and copy letters from the Applicant’s Representative to the Respondent regarding rent arrears dated 23 June and 18 September 2023. The Tribunal had sight of a sheriff officer’s execution of service certifying service of the Application on the Respondent on 19 June 2024.

Case Management Discussion (“CMD”)

A CMD took place before the Tribunal on 29 July 2024 by teleconference. In advance the Applicant’s Representative provided the Tribunal with a copy of a rent increase notice dated 12 February 2022 which increased the rent from £350 per month to £375. At the CMD the Applicant was represented by Naeem Ahmed of the Applicant’s Representative. The Respondent was in attendance.

The Respondent told the Tribunal that she accepted that the arrears were at the level stated in the Notice to Leave. She said she is not able to afford to pay the arrears. She said that she is not working at present and is being supported by a social worker and a carer who attends twice per week. She said that she is unable to afford the monthly rent. She said that her social worker had helped her complete application forms for local authority housing. She said that she lives in the Property alone. She said she understood that if an eviction order was granted that would start a process that would result in her having to leave the Property.

Mr Ahmed said that the Applicant owns a number of rental properties and that the Property would be let to another tenant if an eviction order was granted. He said that the Applicant had decided to raise the application as the arrears had accumulated over a long period. He said the Applicant had no desire to worsen the Respondent’s financial position and would withdraw the application for a payment order if an eviction order was granted. He said the Applicant is aware of the Respondent’s health issues and that was why the Applicant had delayed making the application.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement dated 26 May 2018
2. The Notice to Leave was served by email on 30 November 2023.
3. At the date of service of the Notice to Leave the cumulative amount of rent arrears equated to or exceeded an amount that is the equivalent of 6 months’ rent under the Tenancy Agreement.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 22 February 2024.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51 of the Act, the First-tier Tribunal may 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. In the Notice to Leave the Applicant stated that they sought recovery of possession of the Property on the basis set out in ground 12A which is that the tenant has substantial rent arrears and the cumulative amount of those arrears equates to or exceeds 6 months' rent under the tenancy agreement. The Tribunal considered the statement of rent arrears provided and determined that ground 12A had been established.

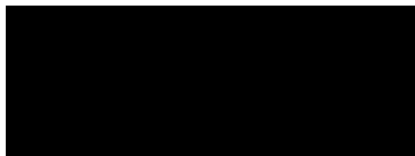
Having considered all of the circumstances, the Tribunal determined that it was reasonable to issue an eviction order. The Respondent had accumulated rent arrears over a long period and was unable to afford the current rent. She is being supported in her efforts to obtain alternative accommodation.

Decision

The Tribunal grants an order for possession of the Property.

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.



**Joan Devine
Legal Member**

Date : 29 July 2024