



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/24/0438

Property : 146 Jerviston Street, New Stevenston, Motherwell ML1 4HT ("Property")

Parties:

Barbara Doreen Laurie, 3b Main Street, Bothwell G71 8RD ("Applicant")

Bannatyne Kirkwood France & Co, 16 Royal Exchange Square, Glasgow G1 3AG ("Applicant's Representative")

Quinn McCairn, 146 Jerviston Street, New Stevenston, Motherwell ML1 4HT ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Angus Lamont (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 24 May 2023; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 24 October 2023 ("Notice to Leave"); a copy of an email from the Applicant's Agent to the Respondent attaching the Notice to Leave dated 24 October 2023; rent statement; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 26 January 2024 and copy emails from Applicant's Agent to the Respondent regarding rent arrears dated 27 July, 7 August and 29 November 2023. The Tribunal had sight of a sheriff officer's execution of service certifying service of the Application on the Respondent on 18 June 2024.

Case Management Discussion (“CMD”)

A CMD took place before the Tribunal on 22 July 2024 by teleconference. The Applicant was represented by Alexandra Wooley of the Applicant’s Representative. The Respondent was not in attendance. Ms Wolley told the Tribunal that the Respondent had been in touch with the Applicant in response to the email seeking permission to amend the sum claimed in the civil application. He said he wished to enter into a payment plan but did not propose anything. Ms Wooley said she understood the Respondent is in employment and lives in the Property with two children although she did not know their ages. She said the Applicant had not carried out a recent inspection of the Property but understood the Respondent is still in occupation.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement dated 24 May 2023.
2. The Notice to Leave was served by email on 24 October 2023.
3. At the date of service of the Notice to Leave and the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 26 January 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 12 which is that the tenant has been in rent arrears for three or more consecutive months.

The Tribunal considered the statement of rent arrears provided and determined that ground 12 had been established. Having considered all of the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order

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 : 22 July 2024