



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/24/1480

Re: Property at Flat 2/2, 40 Bank Street, Paisley, PA1 1LS (“the Property”)

Parties:

Mr Edward Tweedie and Mrs Elaine Tweedie, Suite 204, Old Embroidery Mill, Abbey Mill Business Centre, Paisley, PA1 1TJ (“the Applicants”)

Mr Lukasz Gustak, Flat 2/2, 40 Bank Street, Paisley, PA1 1LS (“the Respondent”)

Tribunal Members:

Gillian Buchanan (Legal Member) and Mike Scott (Ordinary Member)

Decision (in absence of the Respondent)

At the Case Management Discussion (“CMD”), which took place by telephone conference on 19 August 2024, the First Named Applicant was present and was represented by Mr Greenfield, Manorcroft Properties, Paisley. The Respondent was neither present nor represented and had lodged no written representations.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

The Tribunal noted the following background:-

- i. The Applicants leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement (“the PRT”) that commenced on 27 September 2018.
- ii. The rent payable in terms of the PRT is £250 per calendar month.
- iii. Pre action protocol letters were sent to the Respondent on 29 November and 6 December 2023, and 9 January 2024.

- iv. On 21 February 2024, the Applicants served on the Respondent by hard copy personal delivery a Notice to Leave requiring the Respondent remove from the Property by 21 March 2024 on the basis that rent arrears had accrued over three consecutive months. The arrears balance was then £1175.
- v. The Applicant has served on Renfrewshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the CMD Mr Greenfield for the Applicants made the following representations:-

- i. The rent has remained at £250 per month throughout.
- ii. The current arrears as at the CMD are £1945.
- iii. The Respondent made small payments towards the rent in March and April, then nothing until a payment of £120 in June followed by £120 on each of 1 and 15 July and £120 on each of 2 and 15 August 2024.
- iv. The Respondent signed the acknowledgement of the Notice to Leave when served. He said he might be returning to Poland but is still resident at the Property.
- v. The Respondent was previously a driver but lost his job due to a conviction.
- vi. The Respondent lives alone in the Property and has no known vulnerabilities or disabilities.
- vii. The Respondent has refused to engage. Mr Greenfield's office is near the Property. He will knock the door of the Property as he passes from time to time. If the respondent answers he appears to have got out of bed to do so and simply says he may return to Poland in the future.
- viii. The Applicants are unaware of the Respondent having made any applications for housing elsewhere.
- ix. The Applicants seek an eviction order.

Findings in Fact

- i. The Applicants leased the Property to the Respondent in terms of the PRT.
- ii. The rent payable in terms of the PRT is £250 per calendar month.
- iii. Pre action protocol letters were sent to the Respondent on 29 November and 6 December 2023, and 9 January 2024.
- iv. On 21 February 2024, the Applicants served on the Respondent by hard copy personal delivery a Notice to Leave requiring the Respondent remove from the Property by 21 March 2024 on the basis that rent arrears had accrued over three consecutive months. The arrears balance was then £1175.
- v. The Applicant has served on Renfrewshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- vi. The current arrears as at the CMD are £1945.
- vii. The Respondent lives alone in the Property.
- viii. The Respondent has failed to engage relative to the arrears due.
- ix. It is reasonable to grant an eviction order.

Reasons for Decision

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant within the application papers and orally by Mr Deen at the CMD was not challenged and was accepted by the Tribunal.

The Tribunal considered whether or not it would be reasonable to grant an eviction order and determined that it is reasonable to grant an eviction order under Ground 12 of Schedule 3 of

the 2016 Act on the basis that the rent arrears accrued continue to increase, the Respondent's payments do not meet the monthly rent due and he has not engaged to resolve the position.

Decision

The Tribunal granted an eviction order in favour of the Applicants.

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.

Gillian Buchanan

Legal Member/Chair

19 August 2024
Date