



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/24/1719

Re: Property at 67 East Castle Street, Alloa, FK10 1BB ("the Property")

Parties:

Mr David Scott, 3 Alexander Drive, Bridge Of Allan, Stirling, FK9 4QB ("the Applicant")

Ms Claire Richardson, 67 East Castle Street, Alloa, FK10 1BB ("the Respondent")

Tribunal Members:

Gillian Buchanan (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondent)

At the Case Management Discussion ("CMD"), which took place by telephone conference on 26 August 2024, the Applicant was in attendance. The Respondent was neither present nor represented.

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 Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 16 September 2022.
- ii. The rent payable in terms of the PRT is £650 per calendar month.
- iii. On 23 February 2024, the Applicant served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 25 March 2024 on the basis that rent arrears had accrued over three consecutive months.

- iv. As at the date of the Notice to Leave being served the arrears accrued were £4,900 and the Respondent had made no payments since September 2023.
- v. A pre-action protocol letter was sent to the Respondent on 1 February 2024.
- vi. The Applicant served on Clackmannanshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the CMD the Applicant made the following representations:-

- i. The deposit paid under the PRT (£650) is still held in an approved scheme.
- ii. The Respondent has made no payments since September 2023 and the arrears accrued now total £8,800.
- iii. The Respondent lives alone in the Property.
- iv. The Respondent is employed as a Charge Nurse. She has family living in the area. Her sister has previously paid rent on the Respondent's behalf.
- v. The Respondent has had a history of illness and periods off work.
- vi. The Respondent said she had applied to the local authority for housing but did not qualify as she was earning too much.
- vii. The Respondent verbally confirmed receipt of the Notice to Leave.
- viii. The Applicant last spoke to the Respondent around 2-3 months ago during a routine inspection.
- ix. The Respondent did not engage in response to the pre-action protocol letter or otherwise.
- x. The Applicant seeks an eviction order.

Findings in Fact

- i. The Applicant leased the Property to the Respondent in terms of the PRT.
- ii. The rent payable in terms of the PRT is £650 per calendar month.
- iii. On 23 February 2024, the Applicant served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 25 March 2024 on the basis that rent arrears had accrued over three consecutive months.
- iv. As at the date of the Notice to Leave being served the arrears accrued were £4,900 and the Respondent had made no payments since September 2023.
- v. A pre-action protocol letter was sent to the Respondent on 1 February 2024.
- vi. The Applicant served on Clackmannanshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- vii. The Respondent has made no payments since September 2023 and the arrears accrued now total £8,800.
- viii. The Respondent lives alone in the Property.
- ix. The Respondent did not engage in response to the pre-action protocol letter.
- x. It is reasonable, in the circumstances, that an eviction order be granted in favour of the Applicants given the level of rent arrears accrued and the lack of engagement from the Respondent.

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 the Applicant 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 are very significant and amount to 12 months rent.

Decision

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

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

— 26 August 2024
Date