



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/24/2164

Re: Property at 11 Chalkhill Court, Dunbar Park, Whitfield, Dundee, DD4 0LU (“the Property”)

Parties:

Cachet Property Services Ltd, Cachet Property Services Ltd, Afren House, Whitehill Faulds, Bonnyton Road, Kirkton of Auchterhouse, Angus, DD3 0QT (“the Applicant”)

Mr Chris Hutchison, Ms Samantha Anderson, 11 Chalkhill Court, Dunbar Park, Whitfield, Dundee, DD4 0LU (“the Respondents”)

Tribunal Members:

Richard Mill (Legal Member) and Tony Cain (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted

Introduction

This application seeks an eviction order and is under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016.

Intimation of the application and of the initial Case Management Discussion (CMD) in both applications were effected upon the respondents by Sheriff Officers on 2 August 2024.

A CMD took place by teleconference on 5 September 2024 at 11.30 am. The applicant was represented by Ms Caroline Dunn of the applicant company. The respondents failed to participate in the hearing. There was no known barrier to them doing so.

Findings and Reasons

The property is 11 Chalkhill Court, Dunbar Park, Whitfield, Dundee DD4 0LU. The applicant is Cachet Property Services Ltd who is the heritable proprietor and registered landlord. The respondents are Mr Chris Hutchison and Ms Samantha Andreson who are the tenants.

The parties entered into a private residential tenancy which commenced on 4 March 2023. The agreed rent in terms of the written lease was £600 per month.

The current eviction proceedings are based upon arrears of rent and the ground relied upon is ground 12, contained within Part 1, Schedule 3 to the 2016 Act, namely that the respondent is in rent arrears over three consecutive months.

The applications are supported by an up to date detailed rent statement which reflects the arrears of rent relied upon. The tribunal found this a credible and reliable document and attached weight to it. As at the date of application being submitted £5,400 arrears was outstanding. The arrears have now increased to £6,450 as at the date of the hearing.

The tribunal found that the Notice to Leave upon which the eviction application proceeds is valid. It is dated 4 March 2023. 28 days' notice was required to be given. In terms of Section 62 of the Act 48 hours is to be added on to allow for service and an additional period of one further day. The notice served states an application will not be submitted to the tribunal for an eviction before 14 April 2024. The notice was served by recorded delivery post which is evidenced. Sufficient notice was given.

The tribunal was satisfied that more than three consecutive months of rent remains unpaid by the respondents. This establishes ground 12. The tribunal proceeded to consider the issue of reasonableness.

The respondents have not opposed the application. The first respondent is known to be in employment. The respondents have one child. The family have no known disabilities or other vulnerabilities. No reason has been given for the failure to adhere to the rental payments. The respondents recently advised that they required an eviction order to be made so that they could seek homeless accommodation.

There is evidence that the local authority has been advised of the eviction proceedings with a relevant section 11 notice having been issued by the applicant. It is likely that in the event of an eviction order being granted that the local authority will make alternative accommodation available to the respondent and her family.

The rent arrears pre-action requirements have been fulfilled by the Applicant. Offers to enter into a repayment plan have been proposed. The arrears are considerable. No proposals for payment of the arrears or rent moving forward have been made. It is unreasonable for the applicant to continue to make the property available in the absence of rent being paid.

In all of the circumstances the tribunal determined that it was reasonable to grant the eviction order sought by 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.

Richard Mill

5 September 2024

Legal Member/Chair

Date