



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016

Reference number: FTS/HPC/EV/23/4115

Order granted on 20 June 2024.

Re: Property at Flat 1, 1 Woodlands Court, Old Kilpatrick, G60 5HH (“the Property”)

Parties:

Mrs Allison Doig, residing at 2 Barra Road, Old Kilpatrick, G60 5HS (“the Applicant”)

James Wilson residing at Flat 1, 1 Woodlands Court, Old Kilpatrick, G60 5HH (“the First Respondent”)

And

Sophie Back, residing at 19 Wilton Street, Glasgow, G20 6LF

Tribunal Members:

Paul Doyle (Legal Member)

Ahsan Khan (Ordinary member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order against the first respondent for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 12A of schedule 3 to the 2016 Act.

The application against the second respondent is dismissed.

Background

The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicant

had lodged with the Tribunal Form E dated 17/11/2023. The documents produced were a Tenancy Agreement; a notice to leave served on 04/07/2023, a Notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 and a schedule of unpaid rental. A copy title sheet was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 2.00pm on 20 June 2024. The Applicant was represented by Mr Stevenson of Complete Clarity & Simplicity, solicitors. The second respondent was present and unrepresented. The first respondent was neither present nor represented. The case file discloses that the respondent has had timeous intimation of the date, time, and method of joining the hearing. No application is made for an adjournment. We can justly determine this case in absence of the first respondent.

Preliminary Matter

The second respondent renounced the lease in September 2021. She has not been properly served with a notice to leave. The application in respect of the second respondent is incompetent and is dismissed.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondents entered into a Private Residential Tenancy Agreement for the Property on 15/10/2018.
2. The rent in terms of the Tenancy Agreement was £430.00 per month.
3. In September 2021 the second respondent removed from the property. The applicant accepted a renunciation of the lease from her, and the first respondent continued as the sole tenant of the property.
4. Since September 2021 the first respondent has remained liable for the full monthly rental of £430.00. No payments of rent have been made since March 2023. At the date the application was received, there were arrears of rental totalling £5,520.58, which is more than 12 months rental. At today's date there are arrears of rental totalling £8,100.58 which is more than 18 months rental.
5. On 04/07/2023 the applicant served a notice to leave on the first respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 17/11/2023, the applicant submitted this application to the tribunal.

6. The Applicant seeks recovery of possession of the Property from the first respondent in terms of Ground 12A of schedule 3 to the 2016 Act. The rental was 12 months in arrears at the date the application was submitted. Rental is now 18 months in arrears.

7. The first respondent does not offer any resistance to this application.

8. There is no suggestion that the first respondent is in arrears of rent either wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. It is not argued that it is unreasonable to grant an order for repossession of the property. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

Reasons for the Decision

1. The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016.

2. Schedule 3 (12A) to the 2016 Act provides that it is an eviction ground that the tenant has substantial rent arrears where the cumulative amount of the arrears equates to, or exceeds, an amount equivalent to six months' rent.

3. The basis for possession set out in terms of Ground 12A of schedule 3 to the 2016 Act is established. The first respondent does not offer any defence to the application.

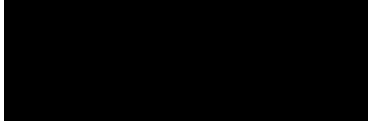
Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property against the first in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 12A of schedule 3 to the 2016 Act.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.



Legal Member

20 June 2024