



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

Chamber Ref: FTS/HPC/EV/24/1402

Re: Property at 41 Milton Street, Hamilton, ML3 9JW (“the Property”)

Parties:

Lawson Properties 1922 Ltd, 78 Elphinstone Crescent, East Kilbride, G75 0PW (“the Applicant”)

Mr John Brown, 41 Milton Street, Hamilton, ML3 9JW (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction.

Background

1. By application dated 24 March 2024 the applicant seeks an order for eviction, relying on ground 12A in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in respect of substantial rent arrears (equivalent to 6 months' worth of rent).
2. The applicant lodged the following documents:
 - Copy tenancy agreement
 - Letter to the respondent with Notice to Leave and Guidance dated 11 January 2024 with proof of delivery
 - Correspondence relating to rent arrears

3. Suzanne La Piazza, Director of Lawson Properties 1922 Ltd attended on behalf of the applicant. The respondent was not present or represented. The Tribunal was satisfied that proper notice of the cmd had been given to the respondent and in particular, Sheriff Officers had served relevant papers on the respondents. The Tribunal determined to proceed with the cmd in the respondent's absence in terms of Rule 29.
4. Ms La Piazza explained that the respondent continued to reside in the property. She sought an order for eviction relying on ground 12A . She explained that she had rented the property to the respondent in December 2020. He had been known to her family and had been a close family friend. The property had been rented to him when he been experiencing some personal difficulties following a relationship break up. As far as she was aware, Ms La Piazza thought the respondent was in employment. She explained that no rent had been received since July 2021, and there had been some arrears by that date. She explained that as at March 2024 the arrears outstanding amounted to £16,250. The monthly rent payable in terms of the tenancy agreement was £425. No rent had been paid since March 2024 and accordingly the outstanding arrears figure continued to rise. Ms La Piazza advised that the respondent lived alone in the property. He was approximately 30 years old. As well as the outstanding rent arrears there had been concerns regarding the condition of the property. Ms La Piazza advised that the letting agents, Wallace Properties who managed the property had not been able to gain access for some time. She had been made aware that the neighbours upstairs had made complaints regarding the smell coming from the property. She was concerned that basic maintenance checks such as the annual gas check had not been completed due to the tenant's refusing access.
5. Ms La Piazza advised that there was no outstanding mortgage over the property. She stated that she had found the respondent's conduct in the tenancy quite upsetting as they had previously been close. She explained that the respondent had family who lived in the locality.

Findings in fact

6. Parties entered into a tenancy agreement with a commencement date of 1 December 2021.
7. Monthly rent due in terms of the agreement was £425.
8. Arrears as at March 2024 amounted to £16,250
9. A notice to leave was served on the applicant dated 11 January 2024
10. The applicant complied with the pre-action requirements set out in the Rent Arrears Pre Action-Requirements (Coronavirus) (Scotland) Regulations 2020.
11. Ground 12A, in schedule 3 of the 2016 Act has been established.

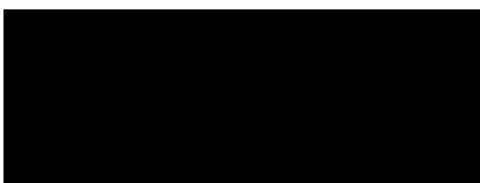
Reasons for the decision

12. The Tribunal had regard to the application and the documents lodged by the applicant. The Tribunal also took into account Ms La Piazza's submissions at the cmd.
13. Ground 12A states
 - (1) *It is an eviction ground that the tenant has substantial rent arrears.*
 - (2) *The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—*
 - (a) *the tenant has accrued rent arrears under the tenancy in respect of one or more periods,*
 - (b) *the cumulative amount of those rent arrears equates to, or exceeds, an amount that is the equivalent of 6 months' rent under the tenancy when notice to leave is given to the tenant on this ground in accordance with section 52(3), and*
 - (c) *the Tribunal is satisfied that it is reasonable to issue an eviction order.*
 - (3) *In deciding under sub-paragraph (2) whether it is reasonable to issue an eviction order, the Tribunal is to consider—*
 - (a) *whether the tenant being in arrears of rent over the period or periods in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit,*
 - (b) *the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers under paragraph 12(4)(b) (and continued in force by virtue of section 49 of the Coronavirus (Recovery and Reform) (Scotland) Act 2022).*

14. The Tribunal determined, in the absence of any opposition that the correspondence sent to the respondent complied with the pre-action requirements.
15. The Tribunal was satisfied that the arrears at the property amounted to £16,250 as at March 2024 and that as the amount of arrears was greater than 6 months' rent both at the date of the notice to leave and the date of the cmd, ground 12A had been established.
16. The Tribunal required to consider whether it was reasonable to grant an order for eviction. The Tribunal took into account the information provided by Ms La Piazza. The Tribunal gave weight to the fact that the respondent resided alone in the property and that so far as the applicant was aware he was in employment. The Tribunal took into account that the respondent had resided in the property since December 2020 and that no rent had been paid since July 2021. The Tribunal noted the high level of arrears, which continued to rise and that no contact or payment had been made by the respondent for a considerable period of time. The Tribunal accepted Ms La Piazza's submission that there had been no engagement from the respondent to try and address the issue with the rent arrears. The Tribunal gave weight to the fact that the respondent had not taken any steps to oppose the application or lodge a defence.
17. In the foregoing circumstances the Tribunal determined that it was reasonable to grant an order for eviction.

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.



Legal Member/Chair

11 September 2024_____
Date