



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/24/1956

Re: Property at 1/L 585 South Road, Dundee, DD2 4LY (“the Property”)

Parties:

Piperdam Ltd, Beat the Banks, 1st Floor 87, 87 Commercial Street, Dundee, DD1 2AB (“the Applicant”)

Miss Melissa Keenan, 1/L 585 South Road, Dundee, DD2 4LY (“the Respondent”)

Tribunal Members:

Gillian Buchanan (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

At the Case Management Discussion (“CMD”), which took place by telephone conference on 3 September 2024, the Applicant was not in attendance but was represented by Ms Louise Todd of Louise Todd Property Management Limited, Dundee. 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 is the heritable proprietor of the Property.
- ii. The Applicant is in right of the landlord’s interest in the lease of the Property to the Respondent in terms of a Private Residential Tenancy Agreement (“the PRT”) that commenced on 6 March 2020.
- iii. The rent payable in terms of the PRT is £595 per calendar month.
- iv. A deposit of £695 was agreed to be paid in terms of the PRT.

- v. On 26 March 2024, the Applicant served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 28 April 2024 on the basis that rent arrears had accrued over three consecutive months.
- vi. As at the date of the Notice to Leave being served the arrears accrued were £1831.95 and the Respondent had made no payments since January 2024.
- vii. Pre-action protocol letters were sent to the Respondent on 22 and 29 March and 22 April 2024.
- viii. The Applicant served on Dundee City Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the CMD Ms Todd for the Applicant made the following representations:-

- i. The deposit paid under the PRT is still held in an approved scheme.
- ii. The Respondent has made no further payments since 25 January 2024 and the arrears accrued now total £4896.20.
- iii. In response to a question from the Tribunal Ms Todd accepted that there appeared to be no entry for June 2023 in the rent statement produced.
- iv. Rent was previously paid by the Respondent personally.
- v. A Rent Increase Notice was issued to the Respondent on 3 April 2023 increasing the rent to £612.85 with effect from 5 July 2023. The Respondent did not object to the rent increase.
- vi. The Respondent is still in occupation of the Property and lives there with her two school aged children.
- vii. The Respondent is believed to be in employment.
- viii. There are no known disabilities or vulnerabilities affecting the Respondent or her children.
- ix. The Respondent has engaged with Ms Todd who has tried to help the Respondent as much as possible.
- x. Rent payment dates were changed to assist the Respondent.
- xi. The Respondent failed to agree a payment plan for the arrears due.
- xii. The Respondent indicated to Ms Todd that she had got in touch with Dundee City Council to apply for housing.
- xiii. The Respondent sent a text to Ms Todd on 1 August 2024 indicating she had been offered a new flat.
- xiv. On 2 September 2024 the Respondent sent a text to Ms Todd indicating she would be moving out the Property on Monday 9 September 2024.
- xv. Ms Todd manages 16 properties for the Applicant. She is unaware of the Applicant having insurance for the loss of rent.
- xvi. The Applicant seeks an eviction order.

Findings in Fact

- i. The Applicant is the heritable proprietor of the Property.
- ii. The Applicant is in right of the landlord's interest in the PRT that commenced on 6 March 2020.
- iii. The rent payable in terms of the PRT is £595 per calendar month.
- iv. A Rent Increase Notice was issued to the Respondent on 3 April 2023 increasing the rent to £612.85 with effect from 5 July 2023.
- v. The Respondent did not object to the Rent Increase Notice.
- vi. A deposit of £695 was agreed to be paid in terms of the PRT.
- vii. The deposit paid under the PRT is still held in an approved scheme.

- viii. On 26 March 2024, the Applicant served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 28 April 2024 on the basis that rent arrears had accrued over three consecutive months.
- ix. As at the date of the Notice to Leave being served the arrears accrued were £1831.95 and the Respondent had made no payments since January 2024.
- x. Pre-action protocol letters were sent to the Respondent on 22 and 29 March and 22 April 2024.
- xi. The Respondent has made no further payments since 25 January 2024 and the arrears accrued now total £4896.20.
- xii. The Respondent is still in occupation of the Property and lives there with her two school aged children.
- xiii. There are no known disabilities or vulnerabilities affecting the Respondent or her children.
- xiv. Rent payment dates were changed to assist the Respondent.
- xv. The Respondent failed to agree a payment plan for the arrears due.
- xvi. The Respondent sent a text to Ms Todd on 1 August 2024 indicating she had been offered a new flat.
- xvii. On 2 September 2024 the Respondent sent a text to Ms Todd indicating she would be moving out the Property on Monday 9 September 2024.
- xviii. Ms Todd manages 16 properties for the Applicant.
- xix. The Applicant served on Dundee City Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

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 Ms Todd 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 (a) the rent arrears accrued are significant with no payment having been made by the Respondent since 25 January 2024, and (b) the Respondent has indicated that she will be moving from the Property on 9 September 2024.

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

3 September 2024
Date

