



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/24/0221

Re: Property at 2/2 11 Craigie St, Glasgow, G42 8NG (“the Property”)

Parties:

Mr Jarnail Thmani, 1 Lammermuir Place, Kirkcaldy, KY2 5RD (“the Applicant”)

Mr Louahem Misabeh Ali, 2/2 11 Craigie St, Glasgow, G42 8NG (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property.

Background

1. By application dated 11 January 2024 the Applicant’s representatives, Strato Rescom Ltd, Glasgow applied to the Tribunal for an order for the eviction of the Respondent from the property in terms of Grounds 11 and 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant’s representatives submitted a copy of a tenancy agreement, Notice to Leave, Section 11 Notice together with other documents in support of the application.
2. Following further correspondence between the Tribunal administration and the Applicant’s representatives by Notice of Acceptance dated 21 June 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 5 September 2024.

The Case Management Discussion

4. A CMD was held by teleconference on 10 October 2024. The Applicant did not attend but was represented by Mr Najif Jaffri. The Respondent did not attend nor was he represented. The Tribunal being satisfied that proper intimation of the date and time of the CMD having been given to the Respondent determined to proceed in his absence.
5. Mr Jaffri explained that his firm had assumed management of the property from another agency in March 2023 and had attempted to contact the Respondent at that time in order to enter into a new tenancy agreement. Mr Jaffri said that the Respondent eventually attended at his office in June 2023. Mr Jaffri confirmed that a new Private Residential tenancy agreement had commenced on 22 March 2023 at a rent of £425.00 per calendar month. Mr Jaffri went on to say that the Respondent had fallen into arrears of rent as although the Respondent was in receipt of housing benefit, at that time in 2023 payments of housing benefit were made to the Respondent who had then failed to apply them to the rent. Mr Jaffri said that following the meeting in June last year with the Respondent the Respondent had agreed to make regular additional payments of £50.00 to reduce his rent arrears. Mr Jaffri went on to say that the Respondent had between July and August 2024 made four payments of £50.00 but had subsequently failed to make any further additional payments but that the Respondent's housing benefit of £392.87 every four weeks was now paid direct to the Applicant's representatives.
6. In response to a query from the Tribunal Mr Jaffri confirmed that the rent currently outstanding amounted to £2382.50. Mr Jaffri went on to say that the Respondent was not addressing the outstanding rent arrears and was not co-operating with the Applicant's representatives. Mr Jaffri spoke of the Respondent making unfounded allegations against the Applicant's representatives' staff and making malicious reports to the police all of which had been investigated and dismissed. Mr Jaffri said that the Respondent had been sending abusive text messages and demanding furniture for the property even although it was let unfurnished. Mr Jaffri went on to say that the Respondent had also refused entry to contractors to carry out repairs or to let the Applicant's representatives carry out inspections.
7. The Tribunal noted that the Respondent had been served with a Notice to Leave under Grounds 11 and 12 of Schedule 3 of the 2016 Act on 3 November 2023. After some discussion as regards Ground 11, Mr Jaffri accepted that as it was submitted that the breach of the tenancy was nonpayment of rent this did not meet the criteria for an order under

Ground 11. The Tribunal also noted that in his earlier communications with the Tribunal administration Mr Jaffri had asked to amend the grounds to include Ground 12A but after further discussion he accepted this was not appropriate.

8. Mr Jaffri confirmed that a Section 11 Notice had been sent by email to Glasgow City Council on 17 January 2024.
9. Mr Jaffri explained that his firm managed five properties for the Applicant and he was not aware of the Respondent owning any more let properties. He did not think there was a mortgage over the property. Mr Jaffri went on to say that the Applicant was retired and dependent upon the rental income from his portfolio for his income. Mr Jaffri said the Respondent lived in the property on his own. He said the Respondent had told him he was working with the police as an Afghan interpreter but that the police had said this was not true. Mr Jaffri described the Respondent as a pathological liar who had made up many untrue allegations against the Applicant's representatives. Mr Jaffri said he was concerned that the Applicant's representatives were unable to gain access to the property and had no way of knowing what condition it was in or what damage the Respondent might have caused.
10. Mr Jaffri submitted it was reasonable that the application be granted.

Findings in Fact

11. The Respondent commenced a Private Residential Tenancy of the property on 22 March 2023 but had lived in the property from an earlier date.
12. A Notice to Leave under Grounds 11 and 12 of Schedule 3 of the 2016 Act was served on the Respondent on 3 November 2023.
13. A Section 11 Notice was sent to Glasgow City Council on 17 January 2024.
14. The Applicant has retired and is dependent on the rent from his property portfolio for his income.
15. At the date of service of the Notice to Leave the Respondent owed rent of £2088.40.
16. At the date of the CMD the Respondent owed rent of £2382.50.
17. The Respondent's housing benefit in the sum of £392.87 is paid to the Applicant's representatives every four weeks.

18. The Respondent has paid nothing to reduce the arrears of rent since August 2023.
19. The Applicant's representatives have experienced difficulty obtaining access to the property for the purpose of carrying out inspections and repairs and the Applicant's representatives' staff have been the subject of malicious or unwarranted phone calls, emails, texts and complaints to the police by the Respondent.
20. The Respondent lives in the property on his own.

Reasons for Decision

21. The Tribunal was satisfied from the documents submitted and the oral submissions of Mr Jaffri that the parties entered into a Private Residential tenancy that commenced on 22 March 2023. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondent under Ground 12 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to Glasgow City Council by way of a Section 11 Notice. The Tribunal was also satisfied from the documents produced and the oral submissions that the Respondent had accrued rent arrears amounting to £2088.40 at the date of service of the Notice to Leave and £2382.50 at the date of the CMD.
22. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondent from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal had to balance the needs of the Applicant with the needs of the Respondent in arriving at a decision. On the one hand there was the Applicant who had retired and was dependent upon the rents from his property portfolio for his income... On the other hand, the Tribunal also had to take account of the needs of the Respondent about whom the Tribunal had limited information. However, in reaching its decision the Tribunal took account of the fact that despite being given the opportunity to submit written representations and to attend the CMD the Respondent had chosen to do neither. The Tribunal also noted the Applicant's representatives concerns as regards the Respondent's failure to cooperate by allowing access to the property for inspections and contractors to carry out repairs. The Tribunal also noted that the Respondent had made false allegations to the police about the Applicant's representatives.
23. After carefully considering the circumstances of both parties the Tribunal was persuaded that the needs of the Applicant in this application were such that although there would undoubtedly be an adverse impact on the Respondent it was reasonable to grant the order.

Decision

24. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing, finds the Applicant entitled to an order for the eviction of the Respondent from the property.

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.

Graham Harding

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Graham Harding
Legal Member

10 October 2024
Date