



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/24/1897

Re: Property at 65 Raeburn Crescent, Hamilton, ML3 9QD (“the Property”)

Parties:

Dr Sonali D'Cruz, 14 Twynersh Avenue, Chertsey, KT16 9DE (“the Applicant”)

Natasha McGarvey, 65 Raeburn Crescent, Hamilton, ML3 9QD (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

- Background

This is an application for an eviction order against the Respondent, who occupies the Property in terms of a private residential tenancy agreement with the Applicant. It called for case management discussion ('CMD') at 10am on 3 October 2024, by teleconference. The Applicant was represented on the call by Mr Jarvie of Bannatyne Kirkwood France & Co., solicitors. The Respondent was not on the call or represented. The commencement of the CMD was delayed by 10 minutes in case she was experiencing any technical difficulty; but there remained no contact from her.

Notice of the CMD and the application papers had been served on the Respondent by sheriff officers on 26 August 2024. In this regard, the Tribunal noted that the certificate of service stated that service had been effected on the Respondent at, “65 Raeburn Crescent, Motherwell, ML3 9QD.” On inquiry by the Tribunal Administration, the sheriff officers confirmed that this was a misprint and should have read, “65 Raeburn Crescent, Hamilton, ML3 9QD.” That having been confirmed, the Tribunal was satisfied that the Respondent was aware of the CMD and had chosen not to defend the application.

- Findings in Fact

The Tribunal considered the following unopposed facts, as set out in the application, to be relevant to its decision:

1. The Applicant lets the Property to the Respondent in terms of a private residential tenancy agreement with a start date of 2 September 2021.
2. In terms of the tenancy agreement, rent of £495 is due on the first day of each month.
3. The Respondent paid no rent in June 2023 and thus fell into arrears.
4. On 6, 13 and 21 December 2023, the Applicant sent the Respondent emails conforming with the pre-action protocol prescribed by Scottish Ministers for rent arrears cases.
5. On 23 January 2024, the Applicant sent the Respondent a notice to leave, stating that he would rely on Ground 12 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (‘the Act’) in any application to the Tribunal to follow.
6. The Respondent has not contacted the Applicant to suggest any arrangement to address the arrears.

7. Although sporadic payments have been made to the rent account, the Respondent has not at any point cleared the arrears since 1 June 2023.

8. As of the date of the CMD, the Respondent was in arrears of £3,898.87.

- Reasons for Decision

9. The Tribunal considered that Ground 12 of Schedule 3 to the Act was satisfied. In particular, it considered it was reasonable to grant the order. The Respondent has been in arrears for longer than a year, which is a substantial period of time and the level of arrears is also significant. She has not engaged with the Applicant to make a formal arrangement to address the outstanding sums. Indeed, the arrears have continued to increase steadily. It is not reasonable to expect a landlord to put up with arrears of this level on the account indefinitely, with no engagement from the tenant and, therefore, no apparent prospect of them ever being addressed.

- Decision

Eviction order granted.

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.

Nairn Young

Legal Member/Chair

Date 03/10/2024