



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/24/2372

Re: Property at 5 Castle Place, Uddingston, Glasgow, G71 7QH (“the Property”)

Parties:

Mr David Chalmers Stirling, 3/111 Spit Road, Mosman 2088, Sydney, New South Wales, Australia (“the Applicant”)

Mr Iain Parker, 5 Castle Place, Uddingston, Glasgow, G71 7QH (“the Respondent”)

Tribunal Members:

Richard Mill (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 an eviction order be granted against the respondent

Introduction

These linked applications seek an eviction order and an order for payment in respect of rent arrears. The applications are under Rules 109 and 111 and Sections 51 and 71 of the Private Housing (Tenancies) (Scotland) Act 2016.

Intimation of the applications and the initial Case Management Discussions (CMDs) in both applications were effected upon the respondent by Sheriff Officers on 23 August 2024.

The CMDs took place by teleconference on 1 October 2024 at 10.00 am. The applicant was represented by both Mr Gary Hamilton of Behome Estate Agents and Lettings, who is a personal friend of the applicant; and Mrs Alison Spence of McTurk & Muir Lettings Ltd. The respondent failed to participate in the hearing.

Findings and Reasons

The property is 5 Castle Place, Uddingston, Glasgow G71 7QH. The applicant is Mr David Chalmers Stirling who is the heritable proprietor and registered landlord of the property. The respondent is Mr Iain Parker who is the tenant. The parties entered into a private residential tenancy which commenced on 25 August 2023. The agreed rent in terms of the written lease was £950 per month.

The eviction proceedings are based upon the arrears of rent and the ground relied upon is ground 12, contained within Part 1, Schedule 3 to the 2016 Act, namely that the respondent is in rent arrears over three consecutive months.

The applicant served a Notice to Leave upon the respondent by email and recorded delivery on 8 April 2024. The Notice to Leave is dated that day and confirmed that proceedings before the tribunal would not be raised before 6 May 2024. The tribunal was satisfied that the respondent had received adequate notice of the intention to raise proceedings and that the Notice to Leave was valid.

As the time of the application to the tribunal, the respondent was in rent arrears to the extent of 4 months and the arrears totalled £3,800. As at the date of the applications being heard by the tribunal the amount of rent outstanding has increased to £8,550. This established ground 12. The claimed rent arrears is evidenced by a detailed rent statement and is not challenged.

The respondent is known to be employed. He has no disabilities or other vulnerabilities. He has no dependents. He is now living in the property alone which is a 3 bedroom terrace house. He does not require that size of accommodation.

There is evidence that the local authority has been advised of the eviction proceedings with a relevant section 11 Notice having been issued by the applicant. In the event of an eviction order being granted that the local authority has a duty to make alternative accommodation available to the respondent.

The applicant's representative complied with the pre-action requirements for landlords in rent arrears applications.

It is not reasonable for the applicant to continue to make the tenancy available for the respondent in the absence of any rent being paid.

In all the circumstances, the tribunal determined that an eviction order was reasonable.

Further the respondent has made no offer to repay the rent arrears. He has made no application for a time to pay direction. A payment order in the claimed sum of £3,800 is necessary. The applicant intends to pursue a further application in due course to recover the remainder of rent arrears outstanding.

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.

Richard Mill

1 October 2024

Legal Member/Chair

Date