

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/24/0678

Re: Property at 361 Carmunnock Road, Glasgow, G44 5HH (“the Property”)

Parties:

Mr Adnan Ashgar, 39 Fairfield Drive, Burnley, Lancashire, BB10 2PU (“the Applicant”)

Ms Jolanta Ramonite, 361 Carmunnock Road, Glasgow, G44 5HH (“the Respondent”)

Tribunal Members:

George Clark (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 application could be decided without a Haring and issued an Eviction Order against the Respondent.

Background

1. By application, dated 8 February 2024, the Applicant sought an Order for Possession of the Property under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 12 of Schedule 3 to the 2016 Act, namely that the Respondent has been in rent arrears for three or more consecutive months.
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Applicant, as landlord, and the Respondent and Abdul Samad, as tenants, commencing on 31 July 2018 at a monthly rent of £500, a Notice to Leave, dated 13 July 2023, advising the Respondent that the Applicant was seeking an Eviction Order under Ground 12 of Schedule 3 to the 2016 Act and that an application to the Tribunal would not be made before 15 August 2023, and a Rent Statement showing arrears at the date of application of £5,695. The Rent Statement indicated that no rent had been

paid since 23 August 2023. The Applicant also provided evidence that the Respondent had taken on sole responsibility for the tenant's obligations under the tenancy on 6 February 2023.

3. On 22 August 2024, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 12 September 2024. The Respondent did not make any written representations to the Tribunal.
4. On 11 September 2024, the Applicant's representatives provided the Tribunal with an updated Rent Statement showing arrears of £9,815, including the payment that had fallen due for the period from 31 August 2024 to 30 September 2022.

Case Management Discussion

5. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 26 September 2024. The Applicant was present and was represented by Miss Emma Hamilton of Clarity Simplicity Limited, Glasgow. The Respondent was not present or represented.
6. The Applicant's representative told the Tribunal that no payments of rent had been received since the date of the application and that the arrears now stand at £9,815. The Applicant told the Tribunal that he had been extremely flexible regarding the tenancy during the COVID-19 lockdown period, but the Respondent had simply decided not to co-operate and had made no effort to engage with him or his letting agents during the last 18 months. He understood the Respondent is living in the Property with a partner and two teenage children and, when contact was last made, she was working in a restaurant. Miss Hamilton added that, as well as the unpaid rent and legal costs and the extreme level of lack of engagement on the part of the Respondent, the Applicant was still having to make monthly mortgage payments on the Property.

Reasons for Decision

7. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
8. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the Eviction Grounds named in Schedule 3 applies.
9. Ground 12 of Schedule 3 to the Act states that it is an Eviction Ground that the tenant has been in rent arrears for three or more consecutive months and that the Tribunal may find that Ground 12 applies if, at the beginning of the day on which the Tribunal first considers the application for an Eviction Order on its

merits, the tenant is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and has been in in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, that the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and the Tribunal is satisfied that it is reasonable on account of that fact to issue an Eviction Order.

10. The Tribunal was satisfied that the Respondent has been in rent arrears for three or more consecutive months and that the current arrears exceed one month's rent. No evidence had been presented to indicate that the Respondent's being in arrears might be wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
11. The Tribunal noted that the Respondent had made no representations for the Tribunal to take into consideration in deciding whether it would be reasonable to issue an Eviction Order and that she had not engaged with the Tribunal process. She had chosen not to attend or be represented at the Case Management Discussion. She owes more than 18 months' rent, has made no payment whatever for over a year, has failed to engage with the Applicant or his letting agents, and has offered no explanation regarding her personal circumstances which she would ask the Tribunal to consider. Accordingly, having considered all the information before it, the Tribunal decided that it would be reasonable to issue an Eviction Order under Ground 12 of Schedule 3 to the 2016 Act.
12. The Tribunal's Decision was unanimous.

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.

George Clark

Legal Member/Chair

26 September 2024
Date

