



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/24/1661

Re: Property at 8 Selvieland Farm, Houston Road, Houston, PA6 7FG (“the Property”)

Parties:

Mr Robert Capper, Auchans Farm, Johnstone, PA6 7EE (“the Applicant”)

Mr Gerry Moran, 8 Selvieland Farm, Houston Road, Houston, PA6 7FG (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Sandra Brydon (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 Hearing and issued an Eviction Order against the Respondent

Background

1. By application, dated 10 April 2024, the Applicant sought an Eviction Order 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 Parties, commencing on 4 September 2018 at a monthly rent of £900, a Notice to Leave, dated 6 March 2024, 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 6 April 2024, and a Rent Statement showing arrears at the date of application of £6,300. The Rent Statement indicated that no rent had been paid since 5 November 2023. The Applicant’s agents subsequently

told the Tribunal that the arrears had risen to £8,100 in May 2024 and, prior to the Case Management Discussion, they provided an updated Rent Statement to the end of September 2024, showing arrears of £11,700.

3. On 23 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 13 September 2024. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 2 October 2024. The Applicant was represented by Mr Ian Anderson-Troy of Penny Lane Homes, Renfrew. The Respondent was not present or represented.
5. 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 £11,700. A previous application to the Tribunal had been unsuccessful, as the Applicant had not followed correct procedure regarding a rent increase and, when that increase was disregarded, the level of arrears did not meet the requirements of Ground 12. Letters in compliance with the Pre-action protocol set out in the Coronavirus (Recovery and Reform) (Scotland) Act 2022 had been sent to the Respondent at the time of the previous application.
6. Mr Anderson-Troy stated that the Respondent lives alone and is believed to be in employment. He had refused attempts to engage with the Applicant or his agents and had offered no explanation for the arrears. The Applicant's agents had contacted the Department of Work and Pensions ("DWP") to enquire whether the Respondent had made a claim for Universal Credit. The DWP had confirmed that no such application had been received.

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 Respondents' 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 he had not engaged with the Tribunal process. He had chosen not to attend or be represented at the Case Management Discussion. He owes more than a year's rent, has paid nothing at all since 5 November 2023, and has offered no explanation regarding his personal circumstances which he 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.

Me

George Clark

Legal Member/Chair

Date 2nd October 2024