



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/24/1859

Property : 36 Stirling Street, Coatbridge ML5 5QR (“Property”)

Parties:

Lisa Brant, 3 Tickwood Hall Cottages, Wyke, Much Wenlock, Shropshire TF13 6NZ (“Applicant”)

TC Young Solicitors, 7 West George Street, Glasgow G2 1BA (“Applicant’s Representative”)

James McGuinness and Shelley Brannigan, 36 Stirling Street, Coatbridge ML5 5QR (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined to grant an order for possession of the Property.

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Private Tenancy Agreement which commenced on 11 January 2018; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 7 November 2023 ("Notice to Leave"); copy sheriff officer certificate of service evidencing service of the Notice to Leave on 8 November 2023; statement of rent arrears; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 22 April 2024 and sheriff officer's execution of service certifying service of the Application on the Respondent on 19 August 2024.

Case Management Discussion (“CMD”)

A CMD took place before the Tribunal on 17 September 2024 by teleconference. The Applicant was represented by Nicky Brechany of the Applicant’s Representative. There was no appearance by or on behalf of the Respondent.

Mrs Brechany told the Tribunal that the Applicant had not had recent contact with the Respondent but the Applicant's letting agent had carried out an inspection of the Property on 13 September 2024 at which the Respondent had told them that they were trying to identify alternative accommodation. Ms Brechany told the Tribunal that the rent had increased to £435 with effect from 11 June 2021 and to £460 with effect from 11 December 2022. She said that the rent had not been paid since June 2023 and that the arrears were now £6,900. Ms Brechany had very little background information about the Respondent. She did not know if the Respondents were working or whether dependents lived in the Property with them although the letting agent indicated that one of the two bedrooms in the Property may be used by a child. Ms Brechany told the Tribunal that benefits were not paid direct to the applicant for rent and she did not know whether the Respondents were in receipt of benefits. Ms Brechany told the Tribunal that the Applicant did have a mortgage over the Property and may have to sell the Property if possession was obtained. Ms Brechany told the Tribunal that the Applicant is employed as a company director although her business is currently suffering a loss. She said that the Applicant does own other rental properties although they are subject to mortgages.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement which commenced on 11 January 2018.
2. The Notice to Leave was served by sheriff officer on 8 November 2023.
3. At the date of service of the Notice to Leave and the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 22 April 2024.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51 of the Act, the First-tier Tribunal may 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. In the Notice to Leave the Applicant stated that they sought recovery of possession of the Property on the basis set out in ground 12 which is that the tenant has been in rent arrears for three or more consecutive months. The Tribunal considered the statement of rent arrears provided and determined that ground 12 had

been established. Having considered all of the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order

Decision

The Tribunal grants an order for possession of 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.

J Devine

**Joan Devine
Legal Member**

Date : 17 September 2024