



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/24/2204

Re: Property at 12 Elm Bank, Kirkintilloch, Glasgow, G66 1PQ (“the Property”)

Parties:

Strategic Thinking Properties Ltd, Unit 5 Springhill Parkway, Glasgow Business Park, Glasgow, G69 6GA (“the Applicant”)

Mr John Kelly, 12 Elm Bank, Kirkintilloch, Glasgow, G66 1PQ (“the Respondent”)

Tribunal Members:

Andrew Upton (Legal Member) and Eileen Shand (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 should be granted against the Respondent.

Statement of Reasons

1. This Application called for its Case Management Discussion by teleconference call on 24 October 2024, alongside the related application for civil proceedings CV/24/2253. The Applicant was represented by Ms Cooke. The Respondent was not present or represented.
2. In this Application the Applicant seeks an eviction order under section 51 and ground 12 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016. The Applicant contends that the parties entered into a Private Residential Tenancy Agreement, that the Respondent has been in rent arrears for a continuous period of three months, and that it is reasonable to grant an eviction order. The Applicant has produced a copy of the PRT

agreement and a rent schedule. The Applicant has also produced a copy of the Notice to Leave given by it to the Respondent.

3. In terms of Rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017, the Tribunal may do anything at a CMD that it may do at a Hearing, including make a Decision. In terms of Rule 2, the Tribunal must have regard to the overriding objective to deal with proceedings justly when making a Decision; including the need to avoid unnecessary delay.
4. The Respondent has received service of the Application and intimation of the CMD. He has chosen not to lodge written representations or attend the CMD to dispute the allegations made against him by the Applicant. Accordingly, the Tribunal is satisfied that the Respondent does not dispute that he is in rent arrears, or that he has been in rent arrears for a continuous period of three calendar months such that ground 12 applies to these circumstances. The only question for the Tribunal to determine is whether it is reasonable to grant the eviction order.
5. The Tribunal heard submissions from Ms Cooke. She advised that the Property is a one-bedroom flat in central Kirkintilloch. The Respondent lives at the Property alone. He is a self-employed personal trainer, whose income appears to be variable. The Property has not been adapted for his use, and the Respondent is not known to access any specialist local services.
6. The Applicant is a company with a portfolio of three or four residential properties, including the Property. There is secured lending over the Property. The Applicant has encountered issues with rent arrears in respect of two properties in its portfolio, including the Property. The rent arrears accruing from the Respondent is having a significant financial impact on the Applicant.
7. Ms Cooke advised that the Respondent has been known to her letting agency for approximately fifteen years. She suggested that she, and her colleagues, are fond of him, but that he appears to be burying his head in the sand in respect of his arrears. She advised that, since the beginning of this tenancy, the Respondent has had sporadic issues with paying rent. In the past 12 months, those issues have gotten increasingly concerning. That is evident from the rent schedule produced by the Applicant. Ms Cooke expressed the view that the Property appears to be unaffordable for the Respondent. She advised that she and her colleagues have made numerous attempts to engage with the Respondent to put a plan in place to address his arrears, and to provide support to him. She spoke to having directed him to agencies that would be able to assist him in seeking income support in the form of universal credit and housing benefit. The Respondent has been offered meetings to discuss how matters can be addressed, but those offers have not been taken up. More recently, the Respondent has become unresponsive to attempts to contact him. As a result, the Applicant has now run out of patience, and Ms Cooke described this point as the end of the road. Ms Cooke advised that she understood that the Respondent had been looking for alternative

accommodation, but that this information came from one of her colleagues who attends the Respondent's gym. It was said that the Respondent had told Ms Cooke's colleague that he was looking for alternative accommodation, but that was the extent of the information provided.

8. Having regard to all of the circumstances as set out above, the Tribunal unanimously determined that it was reasonable to grant an eviction in these circumstances. For the purposes of section 51(4), the PRT will terminate on the date that the eviction order becomes enforceable, which is 25 November 2024.

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.

Andrew Upton

24th October 2024

Legal Member/Chair

Date