



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/24/0956

Re: Property at 4C Pottery Street, Kirkcaldy, KY1 3ET (“the Property”)

Parties:

Kingdom Initiatives Ltd, Saltire Centre, Pentland Court, Glenrothes, KY6 2DA (“the Applicant”)

Mr Ryan Cassidy, Mrs Jennifer Ramsay, 4C Pottery Street, Kirkcaldy, KY1 3ET (“the Respondent”)

Tribunal Members:

Lesley-Anne Mulholland (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Eviction be dismissed against the Respondent.

Introduction

1. This is an application under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 for an Eviction Order under Ground 12 of Schedule 3 which provides the Tribunal with discretion to grant an Order if satisfied that rent arrears had accrued of more than three months and it was reasonable to grant the Order.
2. The Applicant is the Landlord. The Respondents are the Tenants. They entered into a Tenancy Agreement which specified that £461.13 was due per calendar month which increased incrementally over time to £506.51.
3. A two-member Case Management Discussion took place on 22 July 2024 which was continued until today at 10.00 am. The Discussion proceeded by

teleconference. The Applicant was represented by Mrs Mullen. The 1st Respondent attended with her mother observing.

4. It was agreed between the Parties at the Discussion on 22 July 2024, that the Respondents had accrued rent arrears, at the date of application and the date of the Discussion in July 24, in the sum of £3,814.82. It had been agreed between the Parties to accept an offer made by the Respondents to repay the rent arrears in the sum of £100 per calendar month on top of the monthly rent liability, as the 1st Respondent had some personal difficulties which resulted in the arrears accruing. The Case Management Discussion Note prepared on 22 July 2024 sets out more information and is relied upon for its terms.
5. Mrs. Mullen asked the Tribunal to grant an Eviction Order as the Respondents had not kept to the agreement. The Respondents made a significant payment towards the arrears just days before this Discussion. The arrears represent five months of non-payment. Owing to the history of the rent account, which has been in arrears since 2019, and with no payments being made between September 2023 and January 2024 despite efforts to encourage and engage the Respondents, the time had come to seek an order.
6. The Applicant appreciated that the 1st Respondent had some personal difficulties and agreed a repayment schedule in the sum of £100 per month in February 2024 (it is helpful to mention here that the 1st respondent corrected this to 16 March 2024) which had to be paid along with the current rent liability. The Respondents agreed to set up a Direct Debit however only set it up for the amount of rent liability which did not include the amount towards arrears.
7. In April 2024, the Respondents agreed again to pay the rent liability plus £100 towards the arrears however no payment was made towards the arrears until August 2024 after the last Case Management Discussion.
8. The Applicant understands that the 1st Respondent was working in Boots (the chemist) in February 2024 despite which the £100 towards arrears was not forthcoming. It is the Applicant's position that the Respondents have acted unreasonably in their conduct by failing to engage in a meaningful way and failing to adhere to the agreements reached over a significant period to repay the arrears which have been outstanding for a significant period. The Applicant no longer has faith in the Respondents because of their failure to adhere to a number of agreements previously reached.
9. Mrs. Mullen accepted that the 1st Respondent had contacted the Applicant in September 2024 to inform them that she had lost her job. At that time, she offered to pay half the rental liability plus £100 towards the arrears. It was

agreed that £923.51 would be paid on the 10 October 2024 however this was not paid until 22 October 2024.

10. The Applicant asked the Tribunal to grant a Payment Order in the sum of £2,878.86 with interest at 4% per annum.
11. Mrs. Ramsey provided information that she had had some personal difficulties following upon miscarriages in 2022 and 2023 and had to take some time off work which had caused the rent account to go into arrears. She lost her job in September 2024 but managed to obtain work with the local authority from October 2024. It is a contract for one year and she is confident that she can pay the ongoing monthly liability and pay off the arrears over 12 months at £239 per month.
12. She accepts that the previous agreement had not been strictly adhered to but nonetheless she had paid the amount due over the last 10 weeks by way of two lump sums of £500. She regularly communicates with the Applicant landlord to keep them aware of her circumstances. She believes that she is back up on her feet after losing her job. Her job is stable as she has a contract for 1 year. She believes it would be reasonable to allow her time to pay off the arrears and meet the ongoing rent liability rather than evict her.

Analysis and conclusion

5. Having considered all of the information individually and together, we decided not to grant the Eviction Order as it was not reasonable to do so. This is because the Respondents have paid £1000 in 2 lump sums rather than £100 per month which gave the same amount as would have been due over the 10 weeks between the previous Case Management Discussion on 22 July 2024 and today's Discussion.
6. We took into account the 1st Respondent's personal circumstances and were satisfied that she has now secured stable employment and can make payment of £237 per month towards the arrears, which would take around 12 months to pay, whilst at the same time meeting their ongoing monthly rental liability.
7. The Applicant is a medium sized landlord and has sufficient resources such that we took the view that the amount of arrears was not significant in all the circumstances.
8. Balancing this against the Respondents' willingness and ability to pay and the 1st Respondent's honesty to the Tribunal about her circumstances, tipped the balance in their favour to allow us to conclude that it would not be reasonable to grant the eviction order.

9. We impressed upon the 1st Respondent that if they do not adhere to the repayment plan which we have set out in the Order for Payment with a time to pay Direction, that the Applicant may make another application to evict.

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.

Lesley-Anne Mulholland

Legal Member/Chair

Date 25 October 2024