



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/24/0690

Re: Property at 1D Main Street, Westfield, EH48 3BU (“the Property”)

Parties:

Assad Properties Ltd, 4 Murraysgate Ind Est, Whitburn, EH47 0LE (“the Applicant”)

Mr Jamie Jones, 1D Main Street, Westfield, EH48 3BU (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Tony Cain (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought to evict the Respondent from the property.

Background

1. The Applicant submitted an application under Rule 109 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”) for an order to evict the Respondent from the property.
2. A case management discussion (“CMD”) took place on 30 May 2024. The Tribunal issued a note summarising that discussion, along with a notice of direction, on 30 May 2024. A Hearing was fixed for 17 October 2024 at 10am.
3. The Tribunal received further written representations from the Applicant’s representative on 1 August and 9 October 2024. A sheriff officer’s report dated 4 October 2024 indicated that the Respondent had removed from the Property approximately 3 weeks prior to the date of the report.

The hearing – 17 October 2024

4. The Hearing proceeded by conference call on 3 October 2024. The Applicant joined the call and was represented by Mr. Tom McMurtrie, solicitor. The Respondent did not join the conference call, and the Hearing proceeded in his absence. The Applicant's representative explained that following receipt of the sheriff officer's report of 4 October 2024, the Applicant instructed letting agents to attend the Property. Although there was evidence such as uncollected mail which indicated that the Respondent was not living in the Property, the letting agents made contact with the Respondent. The Respondent reported to them that he had not vacated the Property and he had been advised that the local authority could not assist him until an eviction order is granted. The Tribunal enquired about the financial impact on the Applicant which seems to have precipitated the decision to sell the Property. The Applicant's representative explained that the mortgage payment for the Property has increased from £1,700 per month to £4,498 per month. In addition, the Respondent has accrued rent arrears of approximately £4,000. No rent was paid from October 2023 to March 2024 and since then, the Respondent has not paid the full rent due. No explanation has been provided by the Respondent for the failure to pay the full rent.
5. The Tribunal adjourned briefly to consider the information provided by the Applicant's representative. The Tribunal explained that it found that the ground for eviction had been established and that it was reasonable to grant the order.

Findings in Fact

6. The Applicant is the owner and landlord of the Property at 1D Main Street, Westfield, EH48 3BU.
7. The Applicant is entitled to sell the Property.
8. The Respondent is the tenant of the Property at 1D Main Street, Westfield, EH48 3BU.
9. The tenancy in question is a private residential tenancy which commenced on 23 June 2023.
10. The Applicant served Notice to Leave on the Respondent by sheriff officer on 1 November 2023.
11. On 12 February 2024 the Applicant notified the local authority of those proceedings by serving a "section 11 notice" to West Lothian Council.
12. The Applicant intend to sell the Property.

Reason for Decision

13. The Tribunal proceeded on the basis of the documents lodged and the information provided at the Hearing. The Applicant relied upon ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016. The Respondent did not take any part in these proceedings. The information before the Tribunal was that the Respondent has failed to meet his primary responsibility to pay rent, and no arrangement has been made to pay the arrears of rent. The financial impact on the Applicant of increased mortgage rates appears to be very significant, which means that the tenancy is not financially viable. The Tribunal was satisfied that ground 1 was established and that it was reasonable to grant the order.

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.

Nicola Irvine

17 October 2024

Legal Member/Chair

Date