

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/24/2442

Re: Property at 49/4 Telford Drive, Edinburgh, EH4 2NN (“the Property”)

Parties:

Ms Savita Handa, 1 House O'Hill Row, Edinburgh, EH4 2AW (“the Applicant”)

Miss Stacey Crosbie, 49/4 Telford Drive, Edinburgh, EH4 2NN (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Elizabeth Williams (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 Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 15 October 2024 informing both parties that a CMD had been assigned for 21 November 2024 at 2pm, which was to take place by conference call. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and

considers the procedure to have been fair. The Respondent was invited to make written representations by 5 November 2024. No written representations were received by the Tribunal.

The case management discussion – 21 November 2024

4. The CMD took place by conference call. The Applicant joined the call and represented herself. The Respondent did not join the call, and the discussion proceeded in her absence. The Tribunal explained the purpose of the CMD.
5. The Applicant explained that since the application was submitted, rent arrears have increased to £2,847.19. The Applicant received payment directly from the Department for Work and Pensions, but it does not cover the full rental charge of £975. The Respondent is not in employment and lives in the Property with her two sons, believed to be aged 12 and 17. The Respondent has made sporadic additional payments towards the rent account, but she cannot afford to meet the monthly rental charge and is not in a position to make a proposal to pay the rent arrears. The Respondent is being supported by a couple of organisations to try to secure alternative accommodation. The Respondent has been told by the local authority that it cannot provide alternative accommodation unless and until an order for eviction is granted.

Findings in Fact

6. The parties entered into a private residential tenancy which commenced 16 March 2021.
7. The Applicant served Notice to Leave on the Respondent by recorded delivery post on 24 April 2024.
8. The Respondent has been in arrears of rent arrears for more than 3 consecutive months.

Reason for Decision

9. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicant relied upon ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016. The Respondent did not lodge any written representations and did not participate in the CMD. There was nothing before the Tribunal to indicate that the Respondent disputed the level of rent arrears. The Respondent has been consistently in arrears of rent since August 2022. The Tribunal was satisfied that ground 12 was established. Having found the ground established, the Tribunal considered the issue of reasonableness. It noted that the Applicant and others have made efforts to assist the Respondent. There is a shortfall between the rental charge and the sum received from the Department for Work and Pensions. It appears that the

Respondent is unable to meet the shortfall and cannot afford to pay the arrears of rent. The tenancy therefore appears to be unaffordable to the Respondent. In light of the history of arrears, the Tribunal concluded that the tenancy is not sustainable. Accordingly, it was satisfied that it was reasonable to grant the order for eviction.

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.

N Irvine

Legal Member/Chair

Date 21Bovember 2024