



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/24/3136

Property : Old Mill Cottage, Cullerlie, Skene, Westhill AB32 6XN (“Property”)

Parties:

Thomas Grant, Learney Lodge, Torphins, Banchory AB341 4NA (“Applicant”)

Burnett & Reid LLP, Suite A, 1 Albyn Place, Aberdeen AB10 1BR (“Applicant’s Representative”)

Gemma Stewart, Old Mill Cottage, Cullerlie, Skene, Westhill AB32 6XN (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Gerard Darroch (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 30 June 2023; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 (“Act”) dated 10 May 2024 (“Notice to Leave”); Royal Mail proof of delivery on 11 May 2024; 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 9 July 2024 and sheriff officer’s execution of service certifying service of the Application on the Respondent on 11 November 2024. On 9 December 2024 the Applicant’s Representative lodged an updated statement of rent arrears which indicated the arrears were £12,800 at 30 November 2024.

Case Management Discussion (“CMD”)

A CMD took place before the Tribunal on 18 December 2024 by teleconference. The Applicant was represented by Alasdair Taylor of the Applicant’s Representative. There was no appearance by or on behalf of the Respondent.

Mr Taylor told the Tribunal that there had been no recent contact with the Respondent. He said she lived in the Property alone. He said he was not aware of the Respondent having applied for any benefits and he was not aware of the Respondent having any health issues. He said that if an order for eviction was granted the Property would be re-let to a third party.

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 30 June 2023.
2. The Notice to Leave was served by recorded delivery post on 11 May 2024.
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 9 July 2024.

Reasons for the Decision

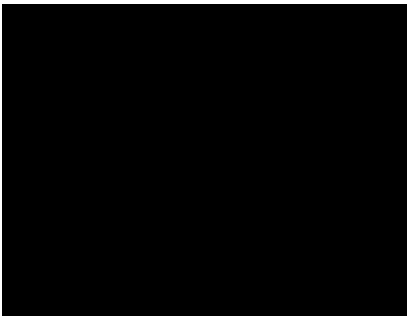
The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51 of the Act, the First-tier Tribunal may issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that 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.



Date : 18 December 2024