



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/24/1370

Re: Property at 23 Abernethy Road, Barnhill, Dundee, DD5 2PE (“the Property”)

Parties:

Mr Gordon Shepherd, Mrs Gillian Shepherd, 43 Barry Downs, Barry Downs Park, Barry, Carnoustie, DD7 7SA (“the Applicants”)

Ms Barbara Croal, 23 Abernethy Road, Barnhill, Dundee, DD5 2PE (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. The Applicants 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. The Tribunal served a copy of the application on the Respondent by sheriff officer on 19 July 2024. Letters were issued on 12 August 2024 providing both parties of the joining details for the CMD assigned for 31 October 2024 at 10am.

The case management discussion – 31 October 2024

4. The CMD took place by conference call. The Second Applicant joined the call and the Applicants were represented by Mr Myles, solicitor. The Respondent did not join the call, and the discussion proceeded in her absence. The Tribunal explained the purpose of the CMD. The Applicants' representative relied on ground 12A. The rent arrears have increased since the application was presented and now amount to £11,655.88. In April 2024, the Respondent sent an email to the Applicants' representative indicating that she had understood that her partner had been paying rent and had only discovered that rent had not been paid. She also indicated that she would pay rent arrears as part of a payment plan. Notwithstanding that email, no payments have been made to the rent account. The last payment made was in May 2023. The Respondent is believed to live alone in the Property. She previously indicated that she would move from the Property when the local authority found alternative accommodation for her.
5. The Tribunal adjourned briefly to consider the information provided by the Applicants' 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 parties entered into a private residential tenancy which commenced 4 December 2017.
7. The Applicants served Notice to Leave on the Respondent by email and recorded delivery post on 15 February 2024.
8. The Respondent accrued rent arrears equivalent to more than 6 months' rent at the date the Notice to Leave was served.

Reason for Decision

9. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicants relied upon ground 12A 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 in arrears of rent almost since January 2023. The last payment to the rent account was made in May 2023. The Tribunal was satisfied that ground 12A was established. Having found the ground established, the Tribunal considered the issue of reasonableness. It noted that the Applicants' representative has made efforts to engage with the Respondent. The Applicants' representative issued letters to the Respondent

in an attempt to reach a repayment plan. The Respondent failed to engage with the Applicants or their representative. In light of the long standing history of arrears, the Tribunal concluded that the tenancy is not sustainable. The Respondent has failed to meet her primary obligation to pay rent in terms of the tenancy agreement. 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.

Legal Member: Nicola Irvine

Date: 31 October 2024