



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016

Reference number: FTS/HPC/EV/24/3199

Order granted on 10 January 2025

Property: 2/2,20 Plantation Park Gardens, Glasgow, G51 1NW

Parties:

Heather Barker, Suite 5 Platinum House, Craighall Business Park, 23 Eagle Street, Glasgow, G4 9XA (“the Applicant”)

Heather Gibson and Michael Paul, residing at 2/2,20 Plantation Park Gardens, Glasgow, G51 1NW (“the Respondents”)

Tribunal Members:

Paul Doyle (Legal Member)
Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 12 of part 3 of schedule 3 to the 2016 Act.

Background

The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicant has lodged Form E with the Tribunal. The documents produced include a Tenancy Agreement, a Notice to leave, served on 06 June 2024, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 2.00pm on 10 January 2025. The Applicant was represented by Mr L Brightey of Western Lettings. The first Respondent was present and unrepresented. The second Respondent was neither present nor represented. The case file reveals that the second Respondent has had adequate notice of the time, date and method of joining the hearing. No application is made for adjournment. We can justly determine this application in the second Respondent's absence.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondents entered into a private residential tenancy Agreement for the Property dated 01 December 2022.
2. The rent in terms of the Tenancy Agreement was £161.54 per week.
3. Since November 2023 the Respondents have not maintained prompt and regular payments of the full rental, so that rent arrears have accumulated. By 10 July 2024 the rent arrears were £1,882.35. Today, there are arrears of rental totalling £5907.93. The Respondents have not paid any rental since receiving the notice to leave.
4. On 06 June 2024 the Applicant served a notice to leave on the Respondents in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 10 July 2024, the Applicant submitted this application to the tribunal.
5. The Applicant seeks recovery of possession of the Property in terms Ground 12 of part 3 of schedule 3 to the 2016 Act. The rental has consistently been in arrears since November 2023.
6. The Respondents remain in the property. The Respondents are both single and have no dependents. They are both employed, but have had long periods of illness during which they could not work. They received sickness benefit and now receive Universal Credit. They chose not to pay rental after receiving the notice to leave.
7. There are no known delays or failures in the payment of benefits, and the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers.
8. The Second Respondent does not resist the application for repossession. The first Respondent accepts responsibility for significant arrears of rental. It is reasonable to grant an order for repossession of the property.

Reasons for the Decision

9. The Applicant seeks recovery of possession of the Property in terms of Ground 12 of schedule 3 to the 2016 Act. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

10. The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in terms of Ground 12 of schedule 3 to the 2016 Act is established.

11. In all the circumstances, it is reasonable to grant an order for possession.

12. For these reasons, the Tribunal determined to grant an Order for possession.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 12 of part 3 of schedule 3 to the 2016 Act.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Date: 10 January 2025

Legal Member: Paul Doyle