



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/24/0707

Re: Property at 263 Sandpiper Drive, East Kilbride, G75 8UN (“the Property”)

Parties:

MUIRHOUSE PROPERTIES LTD, 1 Millheugh Brae, Larkhall, ML9 1AS (“the Applicant”)

Miss Lorraine Cole, 263 Sandpiper Drive, East Kilbride, G75 8UN (“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 Respondents 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 5 December 2024 and the Tribunal issued a note to the parties summarising that CMD. A further CMD was assigned for 20 February 2025 and the Tribunal provided parties with the joining details of that CMD.
3. On 15 February 2025, the Tribunal received an email from the Respondent advising that she was unable to attend and requesting a postponement of the CMD.

4. On 19 February 2025, the Tribunal received an email from the Applicant's representative advising that the postponement request was opposed and that the rent arrears had increased to £1,162.95.
5. On 19 February 2025, the Tribunal advised both parties that the CMD would proceed on 20 February 2025. The Respondent responded to advise that she would not be in attendance.

The case management discussion – 20 February 2025

6. The CMD took place by conference call. The Applicant was represented by Miss Cheryl Young. The Respondent did not join the call, and the discussion proceeded in her absence. The Tribunal explained the purpose of the CMD. The Applicant's representative explained that rent was due to be paid on 10 December 2024. The Applicant's representative contacted the Respondent on 12 December 2024 but received no response. Contact was made with the Respondent on 23 December 2024, but the Respondent did not mention rent arrears. An inspection of the Property took place in December 2024 and the Respondent indicated at that time that she intended to meet her obligation to pay rent. The Respondent made the following payments towards the rent account since the last CMD:-

- £230 on 13 December 2024
- £230.55 on 31 December 2024
- £385 on 3 February 2025.

The current balance of rent arrears is £1,162.95. The Respondent has not made any further proposals to pay the rent arrears and the ongoing rent. In relation to inspections of the Property, the Applicant had some concerns about the condition of the Property. Two appointments were agreed with the Respondent and then cancelled. A further inspection is yet to take place.

Findings in Fact

7. The parties entered into a private residential tenancy which commenced 10 April 2019.
8. The Applicant served Notice to Leave on the Respondent by sheriff officer on 8 December 2023.
9. The Respondent has been in arrears of rent arrears for more than 3 consecutive months.

Reason for Decision

10. 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. At the CMD on 5 December 2024, the Respondent advised the Tribunal that she would pay the rent due for November 2024 would be paid within a week, that the rent due for December would be paid on 23 December 2024 and that the rent due for January 2025 would be paid on 10 January 2025. The Tribunal continued the CMD from 5 December 2024 specifically for the Respondent to demonstrate that she can meet her primary obligation to pay rent. Although the Respondent managed to reduce the level of rent arrears since the application was submitted, she has been consistently in arrears of rent since June 2022. The rent arrears have increased from £463.45 to £1,162.95 since the last CMD. The Tribunal was satisfied that ground 12 was established. The Respondent has been given fair notice of these proceedings. Payment of rent is the Respondent's primary responsibility and she has not fulfilled that responsibility. The tenancy appears to be unaffordable to the Respondent. In these circumstances, the Tribunal 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

20 February 2025
Date