



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/24/3791

Re: Property at 2 Roskill Farm Cottages, Roskill, Munloch, Highland, IV8 8AB (“the Property”)

Parties:

J & S Grant (Roskill), Roskill House, Munloch, Ross-shire, IV8 8AB (“the Applicant”)

Colin Mackie, Victoria Mackie, 2 Roskill Farm Cottages, Roskill, Munloch, Highland, IV8 8AB (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondents)

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 Respondents 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 8 February 2025 informing both parties that a CMD had been assigned for 18 March 2025 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 lodge written representations by 1 March 2025. No representations were received by the Tribunal.

4. On 4 March 2025, the Tribunal received an email from the Applicant's representative, attaching an updated rent statement. A copy had been sent to the Respondent by email.

The case management discussion – 18 March 2025

5. This case called alongside a related case which proceeds under chamber reference FTS/HPC/CV/24/3792. The CMD took place by conference call. The Applicant was represented by Mr Jackson Deane. The Respondents did not join the call, and the discussion proceeded in their absence.
6. The Applicant's representative explained that the Respondents have lived in the Property since May 2023. Arrears of rent started to accrue in June 2023 and have persisted ever since. The Respondents have not made any proposals to pay the rent arrears. The balance of arrears has increased to £8,655. The Applicant believes that the First Respondent is self-employed but the employment status of the Second Respondent is unknown to the Applicant. It is believed that the Respondents do not have any dependents living with them.

Findings in Fact

7. The parties entered into a private residential tenancy which commenced 9 May 2023.
8. The Applicant served Notice to Leave on the Respondents by email on 7 June 2024.
9. The Respondents have 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. There was no material to indicate that the accuracy of the rent statement was in dispute. The Respondents did not participate in the CMD and the Tribunal therefore had no information to explain the longstanding rent arrears and no information about the Respondents' ability to sustain the tenancy. The Respondents have been consistently in arrears of rent almost from the inception of the tenancy and the arrears of rent have continued to increase. 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 complied with the pre-action protocol in an attempt to assist the Respondents. One of the Respondents appears to be working and there was no indication of an entitlement to benefits. It appears that the tenancy is unaffordable to the Respondents. 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.

Nicola Irvine

Legal Member/Chair

Date

18 March 2025