



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/24/2202

Property : 399-A High Street, Kircaldy, Fife KY1 2SG (“Property”)

Parties:

Abdul Kibria, 10 Morar Court, Glenrothes (“Applicant”)

McLaughlin & Co, John Smith Business Park, 1 Begg Road, Kircaldy KY2 6HD (“Applicant’s Representative”)

Denisa Lucica Covaci and Emmanuel Vartolomei, 399-A High Street, Kircaldy, Fife KY1 2SG (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Mary Lyden (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 Tenancy Agreement which commenced on 16 October 2023; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 25 February 2024 ("Notice to Leave"); statement of the Applicant in which he stated that he had delivered the Notice to Leave to the Respondent on 25 February 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 6 May 2024 and sheriff officer's execution of service certifying service of the Application on the Respondent on 16 January 2025. On 24 February 2025 the Applicant's Representative lodged a written statement from the Applicant and an updated statement of rent arrears which indicated arrears of £10,150 as at February 2025.

Case Management Discussion (“CMD”)

A CMD took place before the Tribunal on 25 February 2025 by teleconference. The Applicant was represented by Jordan Nisbet of the Applicant’s Representative. Both of the Respondents were in attendance.

Mr Vartolomei told the Tribunal that he agreed that the rent had not been paid since September 2023. He said that between them the Respondents received £900 per month from universal credit. He said they receive no housing benefit. He said that he is not working as he cares for his mother who is unwell. He said that Ms Covaci had started to work part time last week as a packer in a food production factory. He said he has a son aged 5 who is at school and a daughter aged 3 who is at nursery. Mr Vartolomei said that the Respondent do not receive universal credit towards housing costs as they do not have the right to reside in the UK although he thought that may now change as their son is at school. Mr Vartolomei said that he is Romanian and arrived in the UK in 2019. He said that the Property has 2 bedrooms. He said that he had been in touch with the local authority about assistance with housing and they had told him to remain in the Property as the Applicant would have to apply to the Tribunal for an order for eviction. He said the local authority had told him they could not help until the order was granted. The Tribunal asked why the Respondent stopped paying rent in September 2023. Mr Vartolomei said it was because he lost his working hours.

Ms Nisbet told the Tribunal that the Property is the only rental property owned by the Applicant. She said that he has to pay costs associated with being a landlord and has had to take on a second job to help meet those costs as well as living costs for his family. She said that the relationship between the Applicant and the Respondent had broken down.

The Tribunal noted that the tenancy agreement lodged only referred to Ms Covaci as tenant although both Respondents had signed the document. Ms Nisbet said that the Respondents were joint tenants. Mr Vartolomei said that he agreed with that.

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 15 October 2023.
2. The Notice to Leave was served by hand delivery email on 25 February 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 6 May 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, the Tribunal determined that it was reasonable to issue an eviction order. The rent arrears were substantial. The rent had not been paid since September 2023. The Respondent had been told that the local authority would not provide assistance with identifying alternative accommodation until an order for eviction was granted.

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

Graham Harding

Joan Devine

**Joan Devine
Legal Member**

Date: 25 February 2025