



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 (“the Act”)

Chamber Ref: FTS/HPC/EV/24/4711

Re: Property at 3 Jura Street, North Muirton, Perth, PH1 3AR (“the Property”)

Parties:

Ms Dianne Margaret Stewart, 98 Crammond Place, North Muirton, Perth, PH1 3BW (“the Applicant”)

Mr John Cowie, 3 Jura Street, North Muirton, Perth, PH1 3AR (“the Respondent”)

Tribunal Members:

Steven Quither (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) UNANIMOUSLY determined to grant the order for eviction sought by the Applicant.

BACKGROUND

1. This is an application to bring to an end a Private Residential Tenancy (“PRT”) between the parties in respect of the Property commencing 1 October 2021 (erroneously stated in the PRT as “01 October 201”). The Tribunal accepted the application by Notice of Acceptance of 7 November 2024 and a Case Management Discussion (“CMD”) was duly fixed for 22 April 2025.
2. An associated application for unpaid rent, under Tribunal reference CV/24/4712, was considered together with this application.

3. Prior to the CMD, preliminary consideration of the supporting documentation for this application confirmed that as at 10 October 2024, when this application was lodged, there were outstanding rent arrears of £16425.
4. Prior to the CMD, preliminary consideration of the supporting documentation for this application confirmed that Notice to Leave dated 28 August 2024 was served on the Respondent by sheriff officer letterbox service on the same date, based on the Respondent's then outstanding rent arrears of more than 3 months consecutive rent arrears (Ground 12 of Schedule 3 of the Act) and substantial rent arrears.
5. The appropriate local authority was notified of the application in terms of s11 of the Homelessness etc. (Scotland) Act 2003 and the pre-action protocol appears to have been complied with, albeit to a limited extent only, by notes contained in the Notice to Leave previously referred to
6. Personal service of this application was made on the Respondent by sheriff officers on 25 February 2025.
7. By email of 15 April 2025, the Applicant's agents provided a rent statement to April 2025, showing total rent arrears of £19175.
8. At all times the Tribunal was aware that in relation to this eviction case, it required to be satisfied not only that the formal requirements regarding same had been complied with but also that it was reasonable to make the order for repossession.

CASE MANAGEMENT DISCUSSION on 22 APRIL 2025

9. The CMD took place by teleconference and duly commenced shortly after 10am. The Applicant attended along with her representative, Robert Ferrie, Solicitor, of McCash & Hunter LLP, Solicitors, Perth.
The Respondent did not attend and was not represented.

10. In his submission to the Tribunal and in response to questions then asked by the Tribunal so far as relating to this application, Mr Ferrie advised and confirmed:--

- a) The Applicant was seeking an order for repossession of the Property based on the arrears now outstanding of £19175, to which sum she was seeking to amend any reference to rent arrears (which the Tribunal was content to allow under Rule 13 of the First-Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules"));
- b) As long ago as September 2022, the Applicant attended at the Property to speak to the Respondent regarding rent arrears then outstanding, but said visit had not enabled any progress to be made and resulted in the Applicant making a report to the police of having been assaulted by the Respondent;
- c) The Applicant does not engage easily with people and has the benefit of a support worker to assist her day to day. She feels the Respondent is aware of her vulnerability and has taken advantage of it;
- d) She tried to serve a Notice to Leave previously on the Respondent but was unable to do so successfully;
- e) She inherited the Property and then decided to let it out, but now intends to sell it;
- f) There is no personal or family connection between her and the Respondent, simply that of landlady/tenant and the large sum of rent arrears has simply accrued over time, rather than her affording the Respondent any particular or special leeway as to payment of rent;
- g) In addition to the order for repossession, the Applicant also seeks legal expenses, which are estimated to be in the region of £1400 or so;
- h) So far as the Applicant is aware, the Respondent is single, able to work and in employment, so she is not aware of the non-payment of rent having been caused by any benefits issue or suchlike;
- i) In the event the Tribunal was not prepared to allow amendment due to any non-compliance with Rule 14A of the Rules, the Applicant would be content to proceed based on the original sum of £16425 rent arrears when the application was lodged; and
- j) In view of the level of arrears, the Applicant's position was that it was reasonable to make the order for repossession now sought.

FINDINGS IN FACT

11. The Respondent is due and liable for arrears of rent up to April 2025 of £19175 arising out of a PRT for the Property between the parties, commencing 1 October 2021.
12. The Respondent has been in rent arrears for three or more consecutive months.

REASONS FOR DECISION

13. The Tribunal was satisfied that arrears of £19175 had accrued per the rent statement to April 2025 and that the Respondent had been in rent arrears for 3 or more consecutive months. Having found that the Respondent had been in such arrears for such a period and in the absence of any contrary argument or opposition, the Tribunal was of the view that Ground 12 founded upon by the Applicant in this application had been established.
14. The Tribunal considered the very limited extent to which the pre-action protocol appeared to have been complied with but in view of the prolonged period of non-payment ie April 2022 to date, leading to arrears of £19175, the Tribunal considered it just and reasonable to grant the order sought nonetheless.

DECISION

15. To grant the order for eviction sought by the Applicant.

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.

Stephen Quither

22 APRIL 2025

Legal Member/Chair

Date