



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

Chamber Ref: EV/20/0475

Property:

21F Parnell Street, Airdrie ML6 9EE (“the property”)

Parties:

Ms Margaret Welsh, c/o Independent MPS, 23 Stirling Street, Airdrie ML6 0AH, per Independent MPS, aforesaid (“the applicant”)

Miss Paula Henderson and Dixie Rodgers, both formerly residing at the property and whose present whereabouts is unknown to the tribunal (“the respondents”)

Tribunal Member: David Preston (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction be granted in favour of the applicant

Background:

1. An application under Rule 109 of the First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”) was made on 12 February 2020. The application was based on ground 12 of Schedule 3 of the Private Housing (Tenancies) Act 2016.
2. The tribunal had before it:
 - a. Private Residential Tenancy dated 19 April 2019;
 - b. Notice to Leave dated 27 November 2011;
 - c. Rent statement in respect of each respondent for the period 19 August 2019 to 19 August 2020; and
 - d. Notice to the local Authority under section 11 of the Homelessness etc (Scotland) Act 2003;

3. By Decision dated 25 February 2020 a Legal Member of HPC having delegated power for the purpose, referred the application under Rule 9 of the Regulations to the tribunal. Letters of Intimation with Notices of the Case Management Discussion (“CMD”) to be held on 9 April 2020 at 14.00 in the Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT together with the application and case papers was served on the respondents by Sheriff Officers on 6 March 2020 conform to Certificates of Service by Sheriff Officer of that date.
4. By Orders for Postponements issued by the Chamber President on 20 March, 19 May and 13 July 2020 the scheduled CMD was postponed and re-scheduled for 2 September 2020 at 10.00. Letters of Intimation and Notices of CMD dated 2 July 2020 were returned by Royal Mail marked ‘addressee gone away’. The Letters and Notices were then served by advertisement on 29 July 2020 conform to Certificate of Service by Advertisement dated 2 September 2020.
5. The tribunal was satisfied that all relevant documents and intimation of today’s hearing had been duly served on the respondent and that the requirements of Rule 24 had been complied with.

Case Management Discussion

6. Mr John Clark, Property Solutions Scotland and Mrs Kirsty Hill, Independent MPS appeared on behalf of the applicant. There was no appearance by or on behalf of the respondent. The tribunal was satisfied that the respondents had been given due notice of the CMD and had voluntarily elected to waive their right to be present or be represented and was content to proceed in their absence.
7. The tribunal discussed the rent statement with the applicant’s agent which demonstrated to the satisfaction of the tribunal that the last date on which the rent due had been paid in full was 19 August 2019. Thereafter one further payment of £150 had been paid leaving arrears of rent totalling £5550 as at 19 August 2020.
8. Mrs Hill advised that she had been in contact with neighbours of the property who told her that there were comings and goings in the property at least until 15 July 2020, and that as letting agent she had heard nothing directly from the respondents who had not returned the keys. She had spoken to the neighbours on 15 July 2020 in response to a complaint by them that a door mat was believed to have been taken by the respondents.

Reasons for Decision

9. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, to determine the application at the CMD.
10. The tribunal was satisfied that as at the date of the CMD at which the tribunal considered the application for eviction, arrears of rent in excess of three months

had accrued. No payments had been made since October 2019, leaving arrears in excess of a sum equivalent to one month's rent in arrears for a continuous period up to the date of the CMD of three or more consecutive months.

11. The tribunal was satisfied that the paperwork in respect of termination of the tenancy by the applicant was in order and that an Order for Eviction should be granted.

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.

David Preston

2 September 2020