



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/20/0660

Re: Property at 136 Glasgow Road, Camelon, Falkirk, FK1 4HR (“the Property”)

Parties:

Mr Martin Higgins, 30 Overton Crescent, East Calder, EH53 0RS (“the Applicant”)

Miss Deborah Anne Riley, Mr Brian Harley, 136 Glasgow Road, Camelon, Falkirk, FK1 4HR (“the Respondent”)

Tribunal Members:

Ewan Miller (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant should be granted an order for possession of the Property under the terms of s51 and Ground 12 of Schedule 3 of the Act.

Background

The Applicant is the owner of the Property. He had let the Property to the Respondent on a private residential tenancy under the terms of the Act

The Applicant alleged that the Respondent had failed to pay the rents due under the tenancy from January 2019. He applied to the Tribunal seeking an order for possession on the basis the Respondent had been in rent arrears continuously for a period of more than 3 months.

The Tribunal had before it the following documentation:-

- The Applicant’s application to the Tribunal dated 24 February 2020
- A copy of the lease between the parties dated 24 October 2018

- A copy of the Notice to Leave dated 20 January 2020
- Sheriff Officers Certificate of Service of the Notice to Leave dated 22 January 2020
- Copy s11 Homelessness Notice
- Statement of Rental Arrears to January 2020 showing arrears of £3489.24
- Land Certificate STG34772 evidencing the Applicant's ownership of the Property

Case Management Discussion ("CMD")

The Tribunal held a CMD by teleconference on 6 August 2020 before the Tribunal Member. The Applicant was present and represented himself. The Respondents were present and represented themselves.

There were no facts in dispute between the parties. Accordingly the Tribunal viewed it as appropriate that a decision be made at the CMD. The parties had been notified by the Tribunal in advance that a decision may be made on the day.

Findings in Fact

The Tribunal found the following facts to be established:-

- The Applicant was the owner of the Property;
- The Applicant had leased the Property to the Respondent under a private residential tenancy from October 2018 at a monthly rental of £600 per month;
- There had been rent arrears for a continuous period of 3 months before the Applicants application to the Tribunal;
- As at the date of the CMD, there were arrears of around £6000 due by the Respondent to the Applicant;

Reasons for the Decision

The parties were not in dispute in relation to the facts. The Respondents accepted that there were significant arrears of rent of around £6000. They stated that they had simply been unable to afford the rental. They confirmed that there were no current issues with housing benefit that would allow any discretion to the Tribunal

Ground 12 of Schedule 3 of the Act specifies that it is a mandatory ground for eviction if a tenant has been in rent arrears for three consecutive months and is more than one month in arrears at the date of the Tribunal hearing. The Respondents had confirmed that this was the case. They had confirmed that there were no current issues with the payments of benefits that would give the Tribunal any discretion – they were simply unable to afford the rental. They indicated that they were shortly to be moving to new accommodation in any event and would liaise with the Applicant regarding the return of the keys.

The Notice to Leave had been served by the Applicant before the introduction of the temporary eviction changes in the Coronavirus (Scotland) Act 2020.

Accordingly the Tribunal was obliged to grant the eviction order

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.

E Miller

06/08/2020

Legal Member/Chair

Date