



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/20/0933

Re: Property at 408 Murchison Court, Glenrothes, Fife, KY7 6TT (“the Property”)

Parties:

Mr Andrew McIntosh, Mrs Ruth McIntosh, c/o 31a North Bridge Street, Bathgate, West Lothian, EH48 4PJ (“the Applicants”)

Mrs Louise Hall, 408 Murchison Court, Glenrothes, Fife, KY7 6TT (“the Respondent”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision (in absence of the Respondent)

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

Background

1. This is an application dated 13th January 2020, made in terms of Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”) seeking an eviction order under ground 12 of the Private Rented Housing (Tenancies) (Scotland) Act 2016 (“the Act”). The Applicants’ representative included with the application a copy of the tenancy agreement between the parties, which tenancy commenced on 29th March 2019, copy Notice to Leave dated and served on 6th February 2020 with service email, copy section 11 Notice to the Local Authority, served on 13th March 2020, and rent statement.
2. Intimation of the action and notification of a Case Management Discussion upon the Respondent was made by Sheriff Officers on 15th July 2020.

Case Management Discussion

1. A Case Management Discussion (“CMD”) took place by telephone conference on 13th August 2020. Neither party was in attendance. The Applicants were represented by Ms Matheson, Solicitor.
2. The Tribunal considered the terms of Rule 29 of the Rules. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the CMD, together with details on joining the telephone conference. The Tribunal determined that the requirements of Rule 24(1) had been satisfied and that it was appropriate to proceed with the application in the absence of the Respondent upon the representations of the Applicants’ representative and the material before the Tribunal.
3. Ms Matheson moved for the eviction order to be granted. The monthly rent is £550. The arrears at the time of lodging the action were £1860. The current arrears are £1810. There have been sporadic payments made since the application was lodged. The statutory test is met, in that there have been arrears of rent for a continuous period of three or more consecutive months and the Respondent is in arrears of rent by an amount greater than the amount payable as one month’s rent.
4. Responding to questions from the Tribunal, Ms Matheson said that she is unaware if the Respondent is in receipt of a relevant benefit, or whether any delay in payment of a relevant benefit has contributed to the arrears.

Findings in Fact

5.
 - (i) The parties entered into a private residential tenancy agreement in respect of the Property commencing on 29th March 2019 with a monthly rent of £550.
 - (ii) The Respondent has been in arrears of rent for three or more consecutive months.
 - (iii) Notice to Leave has been served upon the Respondent.
 - (iv) At the date of the CMD, the Respondent was in arrears of rent by an amount greater than the amount payable as one month’s rent.
 - (v) The Respondent’s rent arrears are not due to a delay or failure in the payment of a relevant benefit.

Reasons for Decision

6. Ground 12 of Schedule 3 of the Act provides that it is an eviction ground if the tenant has been in rent arrears for three or more consecutive months. The Tribunal must find that this applies if (1) at the beginning of the day on which the Tribunal first considers the application for an eviction order, the tenant is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day; (2) the tenant has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months; and (3) the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
7. The Tribunal is satisfied that Ground 12 has been established. No evidence was provided to the Tribunal to show that the arrears were due to a delay or failure in the payment of a relevant benefit.
8. The Tribunal is satisfied that the necessary Notice to Leave has been correctly issued to the Respondent in terms of the Act.
9. In terms of section 51(1) of the Act, the Tribunal must issue an eviction order in the circumstances.

Decision

10. An eviction order in respect of the Property is granted against the Respondent.

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.

Helen Forbes

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Legal Member/Chair

13th August 2020
Date