



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/19/1219

Re: Property at 91 Loch Trool Way, Whitburn, West Lothian, EH47 0RL (“the Property”)

Parties:

Mr David Gisbey, Mrs Helen Gisbey, c/o Mavor and Company, 16 Union Square, West Calder, EH55 8EY (“the Applicant”)

Mr Michael Lambe, Ms Angela Glasgow, 91 Loch Trool Way, Whitburn, West Lothian, EH47 0RL (“the Respondents”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted without a hearing and issued an Eviction Order against the Respondents.

Background

By application, received by the Tribunal on 18 April 2019, the Applicant sought an Eviction Order under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 12 of Part 3 of Schedule 3 to the 2016 Act.

The application was accompanied by copies of a Notice to Leave, dated 18 March 2019, informing the Respondents that the Applicant intended to apply to the Tribunal for an Eviction Order and advising that the application would not be submitted to the Tribunal before 17 April 2019, and a rental statement showing arrears as at 19 October 2018 of £1,950. The application was also accompanied by a copy of a Private Residential Tenancy Agreement between the Parties, commencing on 29 June 2018 at a rent of £575 per month.

On 20 May 2019, the Tribunal advised the parties of the date, time and venue for a Case Management Discussion and the Respondents were invited to make written representations by 7 June 2019.

The Respondents made no written representations to the Tribunal in relation to the application for an Eviction Order.

The Applicant's representatives, Mavor & Co, 16 Union Square, West Calder, e-mailed the Tribunal on 7 June 2019, with an updated rental statement, confirming the amount of the arrears as at 29 May 2019 at £3,100.

Case Management Discussion

A Case Management Discussion was held at George House, 126 George Street, Edinburgh on the afternoon of 24 June 2019. The Applicant was represented by Mr Callum McQueenie and Miss Alanna Lees of Mavor & Co, Property Managers. The Respondents were not present or represented.

The Applicant's representatives told the Tribunal that no further payments had been received since the date of the application and the arrears now stood at £3,100. They asked the Tribunal to grant the application without a hearing.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations provides that the Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. The tribunal was satisfied that it had before it all the information and documentation it required and that it would decide the application without a hearing.

Ground 12 of Part 3 of Schedule 3 to the 2016 Act states that it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months and that the Tribunal must find that Ground 12 applies if (a) at the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, 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, and 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 (b) 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 payment of a relevant benefit.

The Tribunal was satisfied that the requirements of Ground 12 had been met. There had been no payments of rent since 29 January 2019 and the arrears now stood at £3,100. The monthly rent was £575. The Respondents had not provided any evidence to suggest that the arrears were in any way a consequence of a delay or failure in the payment of a relevant benefit. Accordingly, the Tribunal was bound to issue the Eviction Order.

Decision

The Tribunal determined that the application should be granted without a hearing and issued an Eviction Order against the Respondents.

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.

G Clark

Legal Member/Chair

24 June 2019

Date