



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/19/1422

Re: Property at 6 Muir Street, Bishopbriggs, Glasgow, G64 1QQ (“the Property”)

Parties:

Mr Daryl Reilly, Ritehome Ltd, 350 Glasgow Harbour Terraces, Glasgow, G11 6EG (“the Applicant”)

Miss Alison Wallace, 6 Muir Street, Bishopbriggs, Glasgow, G64 1QQ (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 12 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

Background

1. An application dated 9 May 2019 was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought a repossession order against the Respondent on the basis of rent arrears accrued by the Respondent under a private residential tenancy, being Ground 12 under Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”).

Case Management Discussion

2. A Case Management Discussion ("CMD") took place on 5 July 2019. The Applicant was represented by his letting agent, Robert Nixon of Ritehome Ltd. There was no appearance by or on behalf of the Respondent. The Tribunal was satisfied that the application had been intimated on the Respondent by way of Sheriff Officer on 5 June 2019 and accordingly the Respondent had sufficient intimation of the date and time of the CMD. Accordingly, the Tribunal was satisfied that the CNMD could proceed in the Respondent's absence.
3. A separate application by the Applicant seeking a payment order against the Respondent under Rule 111 of the Rules and under case reference FTS/HPC/CV/19/1423 was heard at the same time.
4. The Applicant's representative moved for the Order to be granted as sought. The parties had entered into a Private Residential Tenancy Agreement ("the Agreement"), which commenced 29 November 2018. The Respondent fell into rent arrears in January 2019 and there had been a continuous arrear since then. The rent arrears due at the date of the CMD stood at £1,203.48. The monthly rent was £495. A Notice to Leave had been served on the Respondent on the basis of Ground 12 of Schedule 3 to the 2016 Act, on 3 April 2019. There had been no contact from the Respondent since then and she was still believed to be residing within the Property.
5. The following documents were lodged alongside the application:
 - a) Copy Private Residential Tenancy Agreement
 - b) Copy Notice to Leave
 - c) Proof of service of the Notice to Leave
 - d) Section 11 notification to the local authority under the Homelessness etc. (Scotland) Act 2003
 - e) Rent statement

Findings in Fact

6. The Tribunal made the following findings in fact:
- a) The parties entered into a Private Residential Tenancy Agreement (“the Agreement”) which commenced on 29 November 2018;
 - b) In terms of Clause 8 of the Agreement the Respondent was due to pay rent to the Applicant in the sum of £495 per calendar month;
 - c) The Applicant has served a Notice to Leave on the Respondent on the basis of Ground 12 of Schedule 3 to the 2016 Act, and which was served on 3 April 2019;
 - d) The Respondent has been in continuous arrears of rent since January 2019;
 - e) The Respondent is in arrears of rent amounting to £1,203.48 at the date of the CMD.

Reasons for Decision

7. The Tribunal was satisfied that the terms of Ground 12 of Schedule 3 to the 2016 Act had been met, namely that the Respondent has been in continuous arrears of rent for at least three months up to and including the date of the CMD and further that the arrears of rent are an amount which is greater than the amount due to be paid as one month’s rent. The Tribunal was satisfied that a Notice to Leave had been served on the Respondent and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act.

Decision

8. The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 12 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

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.

F.Watson

Legal Member/Chair

5/7/19

Date