



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/19/1763

Re: Property at 39A Castle Street, Fraserburgh, AB43 9DH (“the Property”)

Parties:

Mr Giulio D’Ali, Too Hoots, Spongs Land, Sissinghurst, Kent, TN17 2AH (“the Applicant”)

Mr Budha Nagendra, 39A Castle Street, Fraserburgh, AB43 9DH (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

This is an application for an eviction order in terms of the Private Housing (Tenancies) (Scotland) Act 2016.

The Applicant did not attend the case management discussion on 6 August 2019 but was represented by Miss Yates of Macrae Stephen & Co solicitors, Fraserburgh. The Respondent did not attend nor was he represented. The Tribunal had sight of an execution of service by sheriff officer of the Application and supporting papers on the Respondent. The Applicant's representative Miss Yates requested the Tribunal to proceed in the absence of the Respondent and given that the Application and papers had been served the Tribunal agreed to proceed in his absence in terms of the Tribunal Rules of Procedure.

Discussion

The Tribunal had sight of the application, a tenancy agreement a rent statement, a Notice to Leave in terms of the 2016 Act, a letter from the Applicant's representative to the Respondent, a Notice in terms of Homelessness etc (Scotland) Act 2003, an execution of service of the Notice to Leave, and an email advising the local authority of the Notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003.

The Applicant relied on Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 and it was suggested that the Respondent had been continuously in arrears of rent since at least October 2018. The Tribunal was advised by Miss Yeats that the Tenancy agreement commenced on 20 February 2018 and the rent was £ 375 per month. The rent statement lodged showed arrears of rent for the property accrued by the Respondent since 19 October 2018 and from that date until 20 April 2019 the arrears had remained in place every month despite attempts to come to an agreement to pay off the arrears. The arrears as at 20 April 2019 amounted to £2725 and Miss Yeats advised the Tribunal that no rent had been paid since 29th March 2019.

The Notice to Leave appeared to be in the correct form and had been properly and timeously served. The Notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 had also been sent to Aberdeenshire Council. The Tribunal was satisfied that the eviction grounds were met and an Eviction order should be granted.

Findings in Fact

1. The Applicant and Respondent entered in to a Private Residential Tenancy at the property with effect from 20 February 2018.
2. The rent for the property is £ 375 per month.
3. The Respondent is in arrears with the rent at the property and has been continuously in arrears since October 2018.
4. A Notice to Leave in the appropriate terms and stating the eviction ground and giving information supporting the ground was served on the Respondent on 1st May 2019.
5. A Notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 was served in respect of this Application.

Reasons for Decision

The Tribunal was satisfied that the terms of section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 are met and Ground 12 of the eviction grounds in Schedule 3 of the Act is met in that the Respondent is in rent arrears at the property for more than 3 consecutive months.

Decision

The Tribunal makes an eviction order against the Respondent in terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 as the Respondent is in arrears of rent for the property over more than three consecutive months.

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.

Valerie Bremner

Legal Member/Chair

6 August 2019

Date