



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/20/1972

Re: Property at 113 Greenloanings, Kirkcaldy, KY2 6NL (“the Property”)

Parties:

Mr Manjeet Hayre, Mrs Tarandeep Kaur Hayre, 20 Billesdon Close, Leicester, LE3 9SH (“the Applicants”)

Ms Samatha Richmond, 113 Greenloanings, Kirkcaldy, KY2 6NL (“the Respondent”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision

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 11th September 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 Applicant included with the application a copy of the tenancy agreement between the parties, which tenancy commenced on 6th August 2018, copy Notice to Leave served on 12th February 2020, with recorded delivery tracking information indicating it was signed for by the Respondent on 13th February 2020, and copy section 11 Notice to the Local Authority, served on 11th September 2020.

Case Management Discussion

2. A Case Management Discussion (“CMD”) took place by telephone conference on 12th November 2020. The Applicants were not in attendance and were

represented by Ms Kirsty Morrison, Solicitor. The Respondent was in attendance.

3. The Applicant moved for the eviction order to be granted. The monthly rent is £575. The arrears at the time of lodging the action were £7000. The current arrears are £7775. Notice to Leave has been served. Ground 12 was met and the Tribunal had no discretion but to grant the order.
4. The Respondent agreed the rent arrears were outstanding. She said the failure to pay her rent was not due to a delay or failure in the payment of a relevant benefit. Her failure to pay was due to repairing issues.

Findings in Fact

5.
 - (i) The parties entered into a private residential tenancy agreement in respect of the Property commencing on 6th August 2018 with a monthly rent of £575.
 - (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.
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. The order is not to be executed prior to 12 noon on 17th December 2020.

Right of Appeal

11. 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.

H Forbes

Legal Member/Chair

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12th November 2020

Date