

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/20/0991

Re: Property at 39 Mains Avenue, Beith, KA15 2AT (“the Property”)

Parties:

Mrs Pauline Comerford, 10 Woodside Road, Carmunnock, Clarkston, Glasgow, G76 9AT (“the Applicant”)

Mrs Hayli Gale, 39 Mains Avenue, Beith, KA15 2AT (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member)

Decision (in absence of the Respondent)

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

BACKGROUND

1. By lease dated 13 and 19 June 2019 the Applicant let the Property to the Respondent. The commencement date of the lease was 14 June 2019;
2. The rent payable was £350.00 per calendar month;
3. Arrears of rent began accruing fairly soon afterwards. By December 2019 the Respondent was in arrears in the amount of £1,050.00, being 3 months rental payments;
4. Arrears continued to accrue thereafter. A Notice to leave dated 12 February 2020 was served on the Respondent. This detailed the ground of eviction as being arrears of rent for over 3 months (Ground 12 of Schedule 3 to the Private Housing (Tribunals) Act 2016) and stated that no application would be presented to the Tribunal prior to 14 March 2020;
5. On 18 March 2020 the Applicant presented an application to the Tribunal for an order for eviction. At that time the arrears amounted to £1,523.42;
6. A notice in terms of s11 of the Homelessness etc. (Scotland) Act 2003 was intimated to the local authority;
7. The application was accepted and a Case Management discussion was assigned for 17 August 2020. As at that date the arrears had risen to £2,413.39;
8. The Respondent had apparently been in contact with the Applicant shortly before 17 August 2020 asking that an arrangement be entered in to for

repayment of the arrears. Given the history of non payment the Applicant did not respond to this request;

9. Housing benefit was in payment but did not cover the amount of ongoing rental payments nor any of the arrears. Housing benefit was first paid towards the rent due during January 2020. Various payments of Housing benefit had been paid thereafter but, given the benefit did not amount to the same as the rent due, and given the Respondent failed to make payment of any shortfall, the arrears of rent continued to rise;

THE CASE MANAGEMENT DISCUSSION

10. The Case Management Discussion was conducted by teleconference. The Respondent did not participate personally but was represented by Miss McCulloch of Rent Locally, Hamilton. The Respondent did not participate. The Tribunal was in receipt of an execution of service by sheriff officers confirming that the date and time of the Case Management Discussion had been intimated to the Respondent, together with a copy of the case papers. In the circumstances the Tribunal, being satisfied in terms of Rule 24 of The First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (the "FTT Rules") that the Respondent had received reasonable notice of the same determined that it was appropriate to proceed in accordance with Rule 29 of the FTT Rules;
11. The Applicant's representative sought an order for eviction. In the circumstances outlined, The Tribunal granted this order;

FINDINGS IN FACT

12. The Tribunal found the following facts to be established:-
 - a) By lease dated 13 and 19 June 2019 the Applicant let the Property to the Respondent. The commencement date of the lease was 14 June 2019;
 - b) The rent payable was £350.00 per calendar month;
 - c) Arrears of rent began accruing fairly soon afterwards.
 - d) A Notice to leave dated 12 February 2020 was served on the Respondent. This detailed the ground of eviction as being arrears of rent for over 3 months (Ground 12 of Schedule 3 to the Private Housing (Tribunals) Act 2016) and stated that no application would be presented to the Tribunal prior to 14 March 2020;
 - e) On 18 March 2020 the Applicant presented an application to the Tribunal for an order for eviction. At that time the arrears amounted to £1,523.42;
 - f) A notice in terms of s11 of the Homelessness etc. (Scotland) Act 2003 was intimated to the local authority;
 - g) The application was accepted and a Case Management discussion was assigned for 17 August 2020. As at that date the arrears had risen to £2,413.39;
 - h) When the Tribunal first considered the application the respondent was in arrears by an amount equal to or greater than one month's rent;

- i) As at that time, the Respondent had been in arrears of rent for a continuous period of three or more months;
- j) The arrears of rent were not due to any delay or failure in the payment of any relevant benefit;

DECISION

The Tribunal for Scotland (Housing and Property Chamber) 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 of Schedule 3.

Grants order to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings furth and from the Property at 39 Mains Avenue, Beith, KA15 2AT and to make the same void and redd that the Applicant or others in her name may enter thereon and peaceably possess and enjoy the same.

Date of Order: Order not to be executed prior to 12 noon on 23 September 2020

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.

17 August 2020

Legal Member/Chair _____

Date