



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/19/2648

Re: Property at 49 Glen Road, Deans, Livingston, EH54 8DH (“the Property”)

Parties:

Mr Andrew Gray, 69 Columbia Avenue, Livingston, EH54 6PR (“the Applicant”)

Miss Mariola Gniewek, Mr Grzegorz Gniewek, 49 Glen Road, Deans, Livingston, EH54 8DH (“the Respondent”)

Tribunal Members:

Anne Mathie (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an Order for Possession of the Property in terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016

- **Background**

This is an application in terms of Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 being an application for an eviction order in respect of a private residential tenancy. The application was received on 23 August 2019 and has been conjoined with a civil case (FTS/HPC/CV/19/2649). Along with the application the Applicant’s representative lodged a rent statement, two Notices to leave and a copy of the section 11 Notice sent to the Local Authority. The case was assigned to the Case Management Discussion today. Prior to this the Tribunal noted that a copy of the tenancy agreement had not been lodged and emailed the Applicant’s representative requesting that they bring a copy to today’s Case Management Discussion. The Respondents attended the Tribunal today with their child and were asked if one of them could address the Tribunal while the other looked after the child in the waiting room. If required the Respondents could swap places in due course if required.

- The Case Management Discussion

The Applicant attended the Case Management Discussion today with his representative, Gillian Whannel of Romano 434 Limited and Grzegorz Gniewek appeared with his interpreter, Aggie Tymicz. At the commencement of the Case Management Discussion the Applicant's representative lodged a copy of the tenancy agreement along with proof of service of the Section 11 Notice and a Sheriff Officer's certificate of service in respect of the Notices to Leave. All parties were of the view that the Respondents required to find alternative housing as they could no longer afford the rent. West Lothian Council were looking for an Eviction Order before they would assist. An adjournment took place to allow the Tribunal time to consider the documents lodged in light of the oral submissions and the papers previously lodged. The current rent arrears figure had been stated to be £2774 but after the adjournment it was agreed by parties that the correct figure was £2474.

- Findings in Fact

1. The parties entered into a Private Residential Tenancy on 5 December 2018.
2. In terms of the tenancy agreement the Respondents were due to pay £782 rent per calendar month
3. The Respondents have been in rent arrears since March 2019 due to a change in personal circumstances.

- Reasons for Decision

The Respondents having been in rent arrears over at least three consecutive months and there being more than one month's rent due at today's date, the Tribunal are obliged to grant the Order for Repossession. There is no issue with a delay in benefits payments.

- Decision

The Order for Repossession of the Property is granted

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.

Anne Mathie

Legal Member/Chair

Date

25 October 2019