



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/19/2744

Re: Property at 4 Laurel Lane, Larkhall, ML9 2NG (“the Property”)

Parties:

Mr David Robb, Mrs Claire Robb, c/o Let Link, 5 Wellgate Street, Larkhall, ML9 2AG (“the Applicant”)

Mr Scott James Russell, 4 Laurel Lane, Larkhall, ML9 2NG (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted without a Hearing and issued an Eviction order against the Respondent.

Background

By application, received by the Tribunal on 4 September 2019, the Applicant sought an Eviction Order against the Respondent under Ground 12 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”).

The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties commencing on 29 March 2019 at a rent of £450 per month, a Rent Statement showing arrears as at 3 September 2019 of £2,250, and a Notice to Leave sent by e-mail to the Applicant on 1 August 2019, advising that no application would be made to the Tribunal for an Eviction Order before 1 September 2019.

On 27 September 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 18 October 2019. The Respondent did not make any written representations.

On 31 October 2019, the Applicant's representative provided the Tribunal with a Rent Statement to 29 September 2019, showing that no rent had been paid since 29 March 2019.

Case Management Discussion

A Case Management Discussion as held at Glasgow Tribunals Centre, 20 York Street, Glasgow on the afternoon of 31 October 2019. The Applicant was represented by Miss Euphemia Matheson of Bannatyne Kirkwood France & Co, solicitors, Glasgow. The Respondent was not present or represented. The Applicant's representative confirmed that no rent had been paid since the date of the application and asked the Tribunal to issue an Eviction Order without a Hearing.

Reasons for Decision

Rule 7 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information it required and that it would determine the application without a Hearing.

Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the Eviction Grounds named in Schedule 3 to the Act applies. Ground 12 of Schedule 3 to the Act provides that it is an Eviction Ground that the tenant has been in arrears for three or more consecutive months and that the Tribunal must find that Ground 12 applies if, at the beginning of the day on which the Tribunal first considers the application for an Eviction Order on its merits, 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, and 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 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 payment of a relevant benefit.

The Tribunal was satisfied from the Rent Statements provided by the Applicant that no rent had been paid by the Respondent since 29 March 2019 and that the arrears, therefore, exceeded one month's rent. No evidence had been led to indicate that the tenant's being in arrears might be attributable to a delay or failure in the payment of a relevant benefit. Accordingly the requirements of Ground 12 had been met and the tribunal was bound to issue an Eviction Order.

Decision

The Tribunal determined that the application should be granted without a Hearing and issued an Eviction order against the Respondent.

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.

G Clark

Legal Member/Chair

31 October 2019

Date