



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/18/3159

Re: Property at Flat B (G/Left), 79 Church Street, Broughty Ferry, Dundee, DD5 1EU (“the Property”)

Parties:

**Tiree Investments Ltd, 2 Invermark Terrace, Broughty Ferry, Dundee, DD5 2QU (“the Applicant”)
(Represented by Mr Ramsay, Westburn Services)**

**Ms Terri-Lee Skelligan, Flat B (G/Left), 79 Church Street, Broughty Ferry, Dundee, DD5 1EU (“the Respondent”)
(Represented by Mr Kinghorn, Dundee North Law Centre)**

Tribunal Members:

Gillian Buchanan (Legal Member)

Decision

At the Case Management Discussion (“CMD”) the Applicant was represented by Mr Ramsay of Westburn Services and Mr Lindsay Darroch and Mrs Elinor Darroch of the Applicant were in attendance.

The Respondent was represented by Mr Kinghorn of Dundee North Law Centre.

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

Background

- The parties entered into a Private Residential Tenancy on 12 January 2018 to commence on that date (“the PRT”) in respect of the Property.
- The rent payable in terms of the PRT was agreed to be £525 per month payable in advance on the 12th day of each month commencing on 12 January 2018.

- The Respondent previously had a Short Assured Tenancy of the Property from the Applicant jointly with her partner from whom she separated as a result of which the PRT was entered into in the Respondent's name alone.
- A payment of £2,625 was made by the Respondent in or around April 2018 ("the Payment").
- The Applicant used £1,575 of the Payment towards rent arrears accrued relative to the previous Short Assured Tenancy entered into between the Applicant and the Respondent and her partner, with the balance of £1,050 being used to meet the rent due in terms of the PRT on each of 12th January and 12th February 2018.
- No further payments had been made by the Respondent in connection with the PRT.

The Case Management Discussion

- Mr Ramsay for the Applicant discussed the backdrop to the Payment which was made by the Respondent's Aunt and explained that this was partly utilised to satisfy the arrears relative to the prior Short Assured Tenancy with the agreement of the Respondent and in the context of ongoing discussions with her, her former partner and family members.
- Mr Kinghorn for the Respondent (i) questioned what the Payment was intended for, (ii) indicated that no rent Statement had been attached to the Notice to Leave served on behalf of the Respondent and dated 16 September 2018, (iii) indicated that the Respondent was not happy with the condition of the Property, (iv) stated that she had now put in place a payment plan and (iv) stated that she wanted to leave the Property. The Respondent has 2 young children.
- Mr Kinghorn accepted that even if the Payment was entirely credited to the rent due relative to the PRT, the Respondent remained substantially in arrears of rent, with the arrears of rent being such that Ground 12(2) of Part 3 of Schedule 3 of the Act was in any event established.
- Mr Kinghorn also accepted that whilst the Respondent had issues with repairs to the Property she had not made an application to the Tribunal for breach of the Repairing Standard and had not set aside rent otherwise due in a separate account.
- Mr Kinghorn sought a brief adjournment of the CMD to contact Dundee City Council to establish how an application for accommodation based on the Respondent being homeless might be treated, which was allowed.
- Following the adjournment, Mr Kinghorn stated to the Tribunal that he was in a position to consent to an order for the eviction of the Respondent being granted.

Decision

- On the application of the Applicant and with the consent of the Respondent the Tribunal made an order in favour of the Applicant allowing the Respondent to be evicted from the Property and the Applicant to recover possession thereof.

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 Buchanan

Legal Member/Chair

26/2/19

Date