



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/19/3211

Re: Property at 55 Dunbeth Road, Coatbridge, ML5 3EW (“the Property”)

Parties:

Mr George Clark, Mr Paul Clark, 42 Aitchison Street, Airdrie, ML6 0DB (“the Applicants”)

Miss Tracy Barr, 55 Dunbeth Road, Coatbridge, ML5 3EW (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member)

Decision (in absence of the Respondent)

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

- Background

This is an application for an eviction order against the Respondent in relation to her occupation of the Property in terms of a private residential tenancy. The matter called for a case management discussion at 10am on 7 January 2020. One of the Applicants (Mr Paul Clark) was present in person; but, for reasons set out further below, was in effect representing the other Applicant, as a director of Aquila Management Services Ltd. The Respondent was not present or represented.

- Findings in Fact

1. The Property is owned solely by Mr George Clark. Aquila Management Services Ltd acts as his letting agent. A private residential tenancy, purportedly between the Respondent and Paul and George Clark, was executed on 9 January 2019, starting on the same date. It was executed on behalf of the landlords by Paul Clark only. Paul Clark is a director of Aquila Management Services Ltd. The tenancy is therefore actually between George

Clark (hereafter referred to as, 'the Applicant') and the Respondent, Paul Clark having executed it on behalf of the Applicant as his agent.

2. In terms of the tenancy agreement, rent of £450 is payable on the 9th day of each month. On 9 May 2019, the Respondent may no payment towards the rent and therefore fell into arrears of £450. On 28 May 2019, she made a payment of £340, reducing the arrears to £110. She made further payments of £450 on 28 June 2019 and 26 July 2019; however, neither payment was sufficient to reduce the arrears to zero, with the ongoing rental charge accruing.
 3. On 3 September 2019, the Applicant sent a notice to leave to the Respondent by recorded delivery post. It stated that the ground upon which the Applicant intended to rely to gain an eviction order was ground 12 of Schedule 5 to the Private Housing (Tenancies) (Scotland) Act 2016 ('Ground 12'). It stated that the earliest date upon which such an application could be made was 4 October 2019. This application was made on 9 October 2019.
 4. The Respondent has made two further rent payments since that date: of £450 on 27 September 2019 and £6 on 2 December 2019. In addition, the Applicant applied for and was granted direct payments of universal credit. This amounted to two payments of £429.25 on 28 October 2019 and 28 November 2019. It has since been cancelled by the Respondent. None of these payments was sufficient to reduce the arrears to zero. As of 7 January 2020, the Respondent is in arrears of rent of £1,045.50.
- Reasons for Decision
5. The Tribunal must find that Ground 12 applies. As of the date of the case management discussion, the Respondent is in arrears of rent of more than one month's value. She has been in continuous arrears for more than three consecutive months. That situation is not wholly or partly due to any delay or failure in the payment of a relevant benefit. On that basis, an eviction order is to be issued.
- Decision

Eviction order issued.

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.

Nairn Young

07/01/2020

Legal Member/Chair

Date