



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/19/0658

Re: 14 Murray Crescent, Newmains, ML2 9EP (“the property”)

Parties:

Mr James Sneddon and Mrs Elizabeth Sneddon, 2 Polkemmet Road, Whitburn, Bathgate, West Lothian (“the applicants”)

Friends Legal, The Centrum Building, 38 Queen Street, Glasgow G1 3DX (“the applicant’s representatives”)

Mr Alan Murray, 4 Kirkmichael Avenue, Newmains, ML2 9NX (“the respondent”)

Tribunal Member:

Adrian Stalker (Legal Member)

Decision (in the absence of the respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the requirements of section 51 and schedule 3 ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016 were met, and therefore, granted an eviction order under section 51(1).

Background

1. On or about 17 May 2018, the applicants let the property to the respondent, under a private residential tenancy (“PRT”) in terms of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”). The parties entered into a written tenancy agreement. Under the clause in the agreement headed “rent” the rent payable by the respondent was “£425 per calendar month...”

2. By an application dated 27 February 2019, under rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”), the applicants sought an eviction order under section 51 of the Act. The applicants had already obtained an order from the Tribunal in an application made under rule 111. This was an order against the respondent for payment of rent arrears of £2,550, granted on 24 January 2019, in application is FTS/HPC/CV/18/3176.

3. On 8 March 2019, notice of acceptance of the current application was granted by a legal member. A Case Management Discussion (“CMD”) was fixed.

The CMD

4. The CMD took place at 2pm on 24 April 2019, at the Glasgow Tribunals Centre, Room 112, 20 York Street, Glasgow. Mrs Louise Cameron, of the applicants’ representatives, appeared on their behalf. The Respondent did not appear, and was not represented. He had not made any representations to the Tribunal, in advance of the CMD.

5. Under rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, the First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. Mrs Cameron asked the Tribunal to grant an eviction order under section 51(1) of the 2016 Act. She confirmed that no rent has been paid by the respondent since October 2018. She also advised the Tribunal that as far as the applicants are aware, the respondent left the property in February, and is now residing at 4 Kirkmichael Avenue, Newmains.

Findings in fact, and in fact and law; reasons for decision

6. Along with the application, the applicants had produced copies of: the tenancy agreement; the notice to leave under section 62 of the Act; a sheriff officers’ certificate of execution service of the notice to leave, indicating that service took place on 3 January 2019; and notice to the local authority (under section 19A of the Act), sent by email to North Lanarkshire Council City Council on 27 February 2019.

7. The Tribunal was satisfied that these notices were in order. Part 4 of the Notice to Leave has been signed by the applicants on “1-2-19”. Mrs Cameron confirmed that this meant 2 January 2019, rather 1 February 2019. That was accepted by the Tribunal, on the basis that the Notice was served on 3 January. The notice indicates the correct statutory ground, and gives details of the outstanding rent.

8. Accordingly, the Tribunal was satisfied that ground 12(2)(a) in schedule 3 of the Act was established. In particular, it found that at the beginning of the day on which

the Tribunal first considered the application for an eviction order on its merits, being the date of the CMD: (a) 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 (b) has been in arrears of rent for a continuous period, up to and including that day, of three or more consecutive months.

Decision

9. That being so, the Tribunal is required by the Act to find that ground 12 is established, and further required to grant an eviction order, under section 51(1).

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.

Adrian Stalker

Legal Member

24/4/19

Date