



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/23/1463

Property: 88 Murray Terrace, Carnwath, ML11 8HX

Parties:

Susan Kean, residing at 2 East Whitecastle Farm Cottage, Biggar, ML 12 6LZ (“the Applicant”)

John Clark, residing at 88 Murray Terrace, Carnwath, ML11 8HX (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)
Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

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(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 4A of schedule 3 to the 2016 Act.

Background

The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicant lodged with the Tribunal Form E on 9 May 2023. The documents produced were a Private residential tenancy agreement dated 13 November 2020 and a notice to leave dated 2 February 2022, a Notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003, and a schedule of unpaid rental. A copy title sheet was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place before the Tribunal at 2.00pm on 17 August 2023 by telephone conference. The Applicant was present, but unrepresented. The respondent was neither present nor represented. The time date and place of the case management discussion had been properly intimated to the respondent.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property dated 13 November 2020. In terms of clause 8 of the tenancy agreement the respondents agreed to pay rental at the rate of £425.00 per month.
2. The respondent has not made a full payment of rental since December 2022. At the date of application there were arrears of rent totalling £1,595.35. At today's date there are rent arrears totalling £2,680.00
3. On 2 February 2023 the applicant served a notice to leave on the respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 9 May 2023 the applicant submitted this application to the tribunal.
4. The monthly rent is £425.00. The respondent has not made a full payment of rent since December 2022.
5. The applicant is single and has no dependents. Her income is derived from Universal credit and Personal Independence payment. The applicant was injured in a car crash 2 years ago. The severity of her injuries leave her unable to work and unable to drive. She lives in rented accommodation, and depends on payment of rental from the respondent to be able to pay her own rental. She now has rent arrears due to her own landlord of more than £1,000. The property is the only property the applicant owns.
6. The applicant is isolated where she currently lives because she is in a remote rural area with inadequate public transport. The property has good public transport. The applicant is steadily falling deeper into debt because the respondent has not paid rental this year.
7. The applicant wants to live in the property and reduce her outlays so that she can avoid further financial hardship. The Applicant seeks recovery of possession of the Property in terms Ground 4A of schedule 3 to the 2016 Act.

8. The respondent offers no resistance to the application.

9. There is no suggestion that the respondent is in arrears of rent either wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. It is not argued that it is unreasonable to grant an order for repossession of the property. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in in terms Ground 4A of schedule 3 to the 2016 Act is established. The respondent offers no defence to the application. For these reasons, the Tribunal determined to grant an Order for possession.

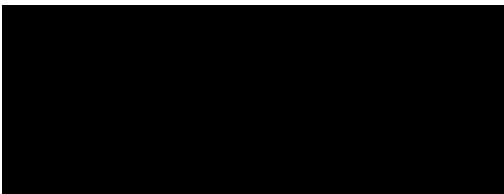
Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 4A of schedule 3 to the 2016 Act.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.



Legal Member

17 August 2023