



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/19/0647

Re: Property at 3/4 Woodcroft Road, Edinburgh, EH10 4FA (“the Property”)

Parties:

Dublin Street Limited, c/o D J Alexander Lettings Ltd, 1 Wemyss Place, Edinburgh, EH3 6DH (“the Applicant”)

Mr Aaron Cummings, 3/4 Woodcroft Road, Edinburgh, EH10 4FA (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the order for recovery of possession of the property.

Background

The Applicant submitted an application seeking an order to evict the Respondent from the property at 3/4 Woodcroft Road, Edinburgh. The Tribunal issued a letter to the parties dated 7th May 2019 advising them of the date, time and place of today’s case management discussion. In that letter, the parties were also told that they required to attend the hearing and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 27th May 2019. No written representations were received.

The Tribunal received a telephone call from the Respondent on the morning of 11th June 2019, advising that he was unwell and unable to attend the case management

discussion. The Respondent subsequently sent an email to the Tribunal confirming that he was unwell and requesting an adjournment to another day.

The Case Management Discussion

The Applicant was represented by Mr Gibb. The case management discussion proceeded in the absence of the Respondent. This case was heard alongside a related case which proceeds under chamber reference FTS/HPC/CV/19/0923.

Mr Gibb was advised about the contact from the Respondent earlier in the day. The Applicants position was that the case management discussion should proceed in his absence and that the application to adjourn should be refused.

The Tribunal noted that there were no written representations made by the Respondent and the Tribunal was therefore unaware of the Respondent's position. The Applicant's representative advised that the Respondent has previously made promises to resolve matters but those promises have not been kept. The Tribunal reached the view that, balancing both parties' interests, the case management discussion should proceed.

The Applicant's representative advised that the an order for eviction was sought on the basis of ground 12 of schedule 3 of the 2016 Act. Mr Gibb advised that, as at today's date, the Respondent is in arrears of rent by an amount greater than one month's rent and has been in arrears for a continuous period of more than 3 consecutive months.

The Applicant insisted on the application for recovery of possession of the property.

Findings in Fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement dated 28th December 2017
2. The rent payable was initially £11,010 per 6 months, payable in advance and from October 2018 was £1,875 per month.
3. The Applicant served Notice to Leave on 11th January 2019 personally on the Respondent.
4. No rent has been paid by the Respondent since December 2018. The Respondent is therefore in arrears of rent for a sum which equates to more than 3 consecutive months of arrears.
5. The Applicant is entitled to the Order sought for repossession.

Reason for Decision

The Tribunal proceeded on the basis of the written documents which were before it. The Respondent was given an opportunity to provide written representations to the Tribunal; he failed to do so and he failed to attend the case management discussion.

The Applicant invited the Tribunal to make the Order sought. The Applicant relied upon Ground 12 of Schedule 3 of the 2016 Act. The Notice to Leave had been properly served. The Tribunal was satisfied that Ground 12 had been established. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

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.

Ms Nicola Irvine

Legal Member/Chair

11th June 2019

Date