



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 (hereinafter referred to as “the 2016 Act”) for an Eviction Order.

Chamber Ref: FTS/HPC/EV/19/2612

Re: Property: 107 Dickson Drive, Irvine, KA12 9AQ

Parties:

Mrs Kulwant Kaur Sandhu, 107A Barry Road, Barry, CF63 1BB (“the Applicant”)

Miss Tammalyn Russell, Mr Ethan Jolly, 107 Dickson Drive, Irvine, KA12 9AQ (“the Respondents”)

Tribunal Members:

Karen Kirk (Legal Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (hereinafter referred to as “the 2016 Act”) for an Eviction Order. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made.

Attendance and Representation

The Applicant attended in person.

The Respondents did not attend the Tribunal and no written representations had been received.

Preliminary Matters

There were no preliminary matters.

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondents under section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016.

Matters Arising

The Tribunal clarified that the evidence lodged confirmed the last payment to rent made by the Respondents was on 8th January 2019 of £500. In 2018 the only payments made to the rent were a payment on 27th June 2018 from North Ayrshire Council of £391.74 and a payment to rent by the Respondents of £500 on 17th December 2018. The present rent due balance was £6391 to September 2019 and was now by the date of the hearing in excess of £7000. The tenancy agreement for the property commenced on 5th August 2018. Prior to that there was an earlier agreement dated 27th August 2015 between the Applicant and one of the Respondents only for the property

The Tribunal confirmed with the Applicant what knowledge if any she had of any entitlement to any relevant benefit. It was confirmed that the Respondents had been entitled to benefits in the past but had also indicated that there was employment at some point. The Applicant stated that she had had no recent contact regarding benefits or knowledge.

The Applicant sought grant of an order under section 51(1) of the 2016 on the grounds of rent arrears. It was noted the relevant notice in terms of Section 50 (1)(a) of the 2016 had been sent and proof of same was lodged in the Application. The Respondents had been served the application appropriately on 14th November 2019. The relevant notice to the Local Authority had been made with reference to same in the Application. No payments under the tenancy had been made since January 2019 and no reasons for non payment had been given to the Applicant.

Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondents had received notification of the proceedings and had not challenged same by written representations or attendance.**
- 2. The Applicant sought an Order for Eviction on the grounds of rent arrears.**

3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property.
4. The Tribunal was satisfied that the Respondents were in terms of Schedule 3, Part 3 Ground 12 of the 2016 Act at the beginning of the day the Tribunal first considered the application for an Eviction Order on its merits in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rents under the tenancy on that day and has been in arrears of any amount for a continuous period of up to 3 or more consecutive months.
5. Further the Tribunal was satisfied on a balance of probabilities and on the evidence before it that the said arrears are not wholly or partly due to delay or failure of payment of the relevant benefit. It was noted the arrears were substantial and have occurred over a long period of time.
6. The Tribunal found that the requirements of Ground 12 of Schedule 3 to the Act had been met.
7. Further the Tribunal was satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period.
8. The Tribunal noted the Local Authority under the 2016 had been notified.
9. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.

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.

Karen Kirk

Legal Member/Chair

Date

19/12/19.