



Decision 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/23/0856

Re: Property at 0/2 4 Howard Street, Paisley, PA1 1PL (“the Property”)

Parties:

Mr Christopher Milne, 21st Floor The key Condo 9/442, Cyaengwattana Road, Nontuburi (“the Applicant”)

Mr Glenn Watson, 0/2 4 Howard Street, Paisley, PA1 1PL (“the Respondent”)

Tribunal Members:

Gillian Buchanan (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondent)

At the Case Management Discussion (“CMD”), which took place by telephone conference on 12 June 2023, the Applicant was represented by Mr Craig Watson of LM Properties Paisley Ltd. The Respondent was neither present nor represented and had lodged no written representations.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

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

Background

The Tribunal noted the following background:-

- i. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement (“the PRT”) that commenced on 7 July 2022.
- ii. The rent payable in terms of the PRT is £375 per calendar month in advance.
- iii. On 14 November 2022, the Applicant’s agent served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 8

February 2023 on the basis that the Respondent was in rent arrears over three consecutive months.

- iv. The Applicant's agent has served on Renfrewshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the CMD Mr Watson for the Applicant made the following representations:-

- i. The rent arrears balance as at the CMD is £3,925.
- ii. The Respondent has made no payments since 7 July 2022.
- iii. The deposit previously paid by the Respondent in terms of the PRT remains held with Safe Deposits Scotland.
- iv. The Respondent continues to live in the Property.
- v. Mr Watson has left several voicemails for the Respondent and sent several emails.
- vi. When Mr Watson spoke to the Respondent a couple of months or so ago he said he was at work, had only one item left in the Property and was moving out. The keys have never been returned. He has not otherwise engaged.
- vii. Mr Watson inspected the Property on 2 May 2023. The Respondent was not in attendance but there was evidence of him living there.
- viii. The Respondent lives in the Property alone. Mr Watson had no idea who is the female occupant referred to in the Sheriff Officers' report of 11 May 2023.
- ix. At the start of the tenancy the Respondent stated he was in the course of moving jobs. He advised he was just out of a relationship break-up.
- x. Mr Watson has no information on the Respondent's employment or financial circumstances.
- xi. The Applicant seeks an eviction order.

Findings in Fact

- i. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 7 July 2022.
- ii. The rent payable in terms of the PRT is £375 per calendar month in advance.
- iii. On 14 November 2022, the Applicant's agent served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 8 February 2023 on the basis that the Respondent was in rent arrears over three consecutive months.
- iv. The Applicant's agent has served on Renfrewshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- v. The rent arrears balance as at the CMD is £3,925.
- vi. The Respondent has made no payments since 7 July 2022.
- vii. The deposit previously paid by the Respondent in terms of the PRT remains held with Safe Deposits Scotland.
- viii. The Respondent continues to live in the Property.
- ix. The Respondent has failed to engage with the Applicant and his agent.
- x. It is reasonable to grant an eviction order.

Reasons for Decision

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant within the application papers and orally on his behalf at the CMD was not challenged and was accepted by the Tribunal.

The Tribunal noted that the Applicant and his agent had not complied with the Scottish Government pre-action protocols which is relevant to the Tribunal's determination of whether

it is reasonable to grant an eviction order. Indeed the Tribunal had some doubt that Mr Watson was even aware of these protocols and their significance which was a concern.

However, in this instance, Mr Watson had made considerable other efforts to engage with the Respondent without success. The Respondent had paid almost nothing since the tenancy began. The arrears were in excess of the equivalent of 10 months' rent. He had not engaged at all. The Tribunal took the view that he would not have answered the pre-action protocol letters either and, exceptionally given the history and level of rent arrears in this case, determined that the failure to comply with the pre-action protocols was not fatal to the grant of an eviction order as might otherwise have been the case.

The Tribunal considered whether or not it would be reasonable to grant an eviction order and determined that it is reasonable to grant an eviction order under Ground 12 of Schedule 3 of the 2016 Act.

Decision

The Tribunal grants an order for the Respondent's eviction from the Property.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

G Buchanan

Legal Member/Chair

12 June 2023
Date

