



**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/23/1411

Re: Property at 31 Shand Lane, Carluke, Lanarkshire, ML8 5RN (“the Property”)

Parties:

Mr Thomas Dillon, Mrs Kinga Juhasz, 25 St Phillips Avenue, Eastbourne, East Sussex, BN22 8LU (“the Applicant”)

Mr Steven Galloway, 31 Shand Lane, Carluke, Lanarkshire, ML8 5RN (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 3rd May 2023. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to ground 12 of the Private Housing (Tenancies) Act 2016.
2. On 12th June 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 14th July 2023 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 3rd July 2023.

3. On 14th June 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 14th June 2023.

The Case Management Discussion

4. A CMD was held on 14th July 2023 at 2pm by teleconferencing. The Applicants were represented by Mr John McKeown, trainee solicitor, Jackson Boyd Lawyers. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make representations in advance of the CMD.
5. Mr McKeown said that there was a payment plan agreed with the Respondent on 3rd March 2023 for his rent charge plus £200 per month to the arrears. This has not been adhered to. The last payment made was on 26th May 2023 for £150 which is £400 below the rent charge and does not address the arrears. The Respondent contacted the letting agent on the day of the Tribunal to offer to pay £100 per month to the arrears. Mr McKeown opposed any regard of this offer as there has been a payment plan previously which has not been adhered to and little payments since that offer in March 2023.
6. Mr McKeown said that the Respondent is a single young man living in the Property. It is not known if he is working. The Applicant believes that he may be undertaking seasonal work as he pays more at certain parts of the year then accrues arrears at the other part of the year. The Respondent is not known to have any vulnerabilities.
7. Mr McKeown said that the Applicants have a mortgage over this property. This is the only property that they rent out. The Respondent not paying the rent is causing a financial burden upon them. They have three children under 18 years old.

Findings and reason for decision

8. A Private Rented Tenancy Agreement commenced 15th January 2021.
9. The Respondent persistently failed to pay his rent charge of £550 per month. The rent payments are due to be paid on 15th day of each month.
10. Arrears accrued to more than one months rent payment at the date of application and was more than three months rent payments at the date of the hearing.
11. There have been offers of a payment plan but this has not been forthcoming.
12. The arrears have increased £3675. This is higher than the amount detailed within the application. The Respondent has not addressed the arrears.

13. By not paying the rent, the Respondent is causing the Applicants to have the financial burden of paying the mortgage by themselves rather than using the rent to pay it.
14. There are no issues of reasonableness that would prevent the Tribunal granting an order for eviction.

Decision

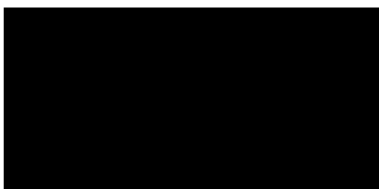
15. The Tribunal found that ground 12 has been established and granted an order in favour of the Applicant. This case is caught by the Cost of Living (Tenant Protection)(Scotland) Act 2022.

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.



Legal Member/Chair

14th July 2023

Date