



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/18/3010

Re: Property at 5 Victoria Road, Falkirk, FK2 7AU (“the Property”)

Parties:

Mr Gurmit aka Sonny Kareer, 15 Ventnor Road South, Leicester, LE2 3RN (“the Applicant”)

Ms Monika Szalai, 5 Victoria Road, Falkirk, FK2 7AU (“the Respondent”)

Tribunal Members:

David Preston (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction.

Background

1. By application dated 5 November 2018 the applicant applied to the Tribunal for an order for eviction against the respondent under section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) on the basis of ground 12 of Schedule 3 thereof. Along with the application the applicants lodged:
 - a. Private Residential Tenancy Agreement dated 6 April 2018;
 - b. Rent Payment Account/schedule showing rent paid and received;
 - c. Notice to Leave dated 18 September 2018 with Post Office Certificate of Posting of that date;
 - d. Section 11 Notice;
 - e. Rent account / statement detailing tenancy / rent arrears;
 - f. Landlord / Agency Management Agreement confirming authority for Sinclair Services to act for landlord.

2. A CMD on 14 February 2019 was postponed until today following the grant of an application for postponement by the respondent because she was unable to attend due to work commitments and for an interpreter to be provided by the Tribunal. The legal member agreed to grant the adjournment and a fresh CMD was scheduled for 28 March 2019 at STEP Stirling, Stirling Enterprise Park, John Player Building, Stirling FK7 7RP.
3. A copy of the Note of Proceedings and Outcome from the CMD on 14 February 2019 was sent to the respondent on 15 February 2019 and a letter providing details of the date and time of the fresh CMD was sent to her on 6 March 2019.
4. The applicant did not attend the CMD but was represented by his agent Mr David Aiton, Sinclair Services, 65 Montgomery Street, Kinross, KY13 8EB. The tribunal waited until 1405 before convening the CMD but respondent did not attend and was not represented.
5. Following the CMD on 14 February 2019 the applicant lodged an updated rent statement which demonstrated that the last payment of rent had been made by the respondent on 8 August 2018.

Case Management Discussion

6. The tribunal noted that all necessary paperwork for the termination of the Private Residential Tenancy was in order.
7. The tribunal noted that on 2 January 2019 the landlord's agent had submitted to the Tribunal a copy of the Notice to Leave dated 18 September 2018 to the respondent in both English and translated into Hungarian.

Findings in Fact

8. The applicant and respondent entered into a Private residential Tenancy dated 6 April 2018.
9. Rent under the Agreement was due to be paid at the rate of £450 per month.
10. Rent was paid in full up to 8 May 2018, after which shortfalls in payment began to accrue. No rent had been paid since 8 August 2018.
11. As at 8 February 2019 the total rent outstanding amounted to £3350.01. Mr Aiton confirmed that no further rent had been paid since that time.

Reasons for Decision

12. Rule 17(1)(d) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states that the Tribunal "*may do anything at a case management discussion which it may do at a hearing,*

including making a decision". The Tribunal was satisfied that it had before it all the information it required to make a decision and that it would, therefore do so without a hearing.

The tribunal was satisfied that as at the beginning of the day of the CMD the tenant is in arrears of rent by an amount greater than the amount which would be payable as one month's rent under the tenancy on that day and that she has been in arrears of rent for a continuous period of seven consecutive months, all in terms of paragraph 12 (2) of Schedule 3 of 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.

D Preston

Legal Member/Chair

28 March 2019

Date