



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/19/2284

Re: Property at 87 1/2 Cathcart Street, Greenock, PA15 1DE (“the Property”)

Parties:

Steven Thomson, residing at 3 Burns Drive, Wemyss Bay, PA18 6BY (“the Applicant”)

Mr Anthony Collins, 87 1/2, Cathcart Street, Greenock, PA15 1DE (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016

Background

The Applicant sought recovery of possession of the Property in terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“The 2016 Act”). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement 01 March 2019; a notice to leave dated and served on 11 June 2019 and a Notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 served on 11 June 2019. A copy title sheet was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place before the Tribunal at 10.00am on 17 October 2019 at the Glasgow Tribunals Centre, 20 York street, Glasgow G2 8GT. The Applicant was represented by Ms P MacLeod of Cathie Scott properties. There was no appearance by or on behalf of the Respondent.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Private Residential Tenancy Agreement for the Property dated 1 March 2019.
2. The period of the Lease was from 1 March 2019.
3. The initial rent in terms of the Tenancy Agreement was £400 per calendar month.
4. The Tenancy Agreement set out the grounds on which the Landlord could seek recovery of possession of the Property in terms of Schedule 3 of the 2016 Act.
5. A notice to leave (dated 11 June 2019) were served on the Respondent by sheriff officers on 11 June 2019.
6. An Application was made to the Tribunal on 18 July 2019 which was more than 28 days after the date of service of the notice to leave.
7. The Applicant sought recovery of possession of the Property on Grounds 11 and 12 of schedule 3 to the Private Housing (Tenancies)(Scotland) Act 2016.
8. The Respondent failed to make payment of rent due between 28 March 2019 and 27 July 2019. At the date of service of the notice to leave, and at the date of application, there were arrears of rental totalling £1,600. At today's date there are arrears of rental totalling £2,800.
9. At the date of service of the notice to leave and at the date of making this Application there was at least 3 months' rent lawfully due in arrears. The basis for possession set out in ground 12 of schedule 3 to the 2016 Act are established.
10. Notice of the date of this hearing was served on the Respondent on 10 September 2019.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 51(1) of the 2016 Act. At the date of application three months rent was due. At today's date more than three months rent is due. The basis for possession set out in ground 12 of schedule 3 to the 2016 Act is established. Ground 12 is a "mandatory" ground. For these reasons, the Tribunal determined to grant an Order for possession. The notice to leave has been served on the Respondent and has provided the requisite period of notice. This Application has been made within a period of 6 months after the service of the notice to leave.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession.

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.

Paul Doyle

Legal Member

17 October 2019