



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/20/0058

Re: Property at 76 Kirk Street, Coatbridge, North Lanarkshire, ML5 1BP (“the Property”)

Parties:

Mr Lendrick Gillies, 132 St John's Road, Edinburgh, EH12 8AX (“the Applicant”)

Mr Kieron Porteous, 76 Kirk Street, Coatbridge, North Lanarkshire, ML5 1BP (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member)

Decision (in absence of the Respondent)

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

BACKGROUND

1. The Respondent rented the Property from the Applicant and took entry on 2 June 2018, that being the commencement date of the lease;
2. The rent payable was £450 per calendar month;
3. The Respondent stopped paying rent in November 2018. As at the date of the Case Management Discussion, therefore, the arrears of rent exceeded £8,000.00;
4. The Landlord served a Notice to Leave on the Respondent. The notice was dated 7 August 2019. It stated grounds of eviction to be (a) that the respondent had breached a term of the tenancy agreement and (b) that the tenant was in arrears of rent for more than 3 consecutive months;
5. The notice to leave was served by Sheriff Officers on 9 August 2019;
6. The Notice to Leave indicated that proceedings would not be raised before 1 November 2019;

7. An application for eviction was received by the Tribunal on 9 January 2020;
8. A notice in terms of s11 of the Homelessness (Scotland) Act 2003 had been served on the local authority;

THE CASE MANAGEMENT DISCUSSION

9. The Applicant did not attend the Case Management Discussion but was represented by Mr A Ponton, Messrs Gilson Gray, Edinburgh;
10. The Respondent failed to attend. The Tribunal was in receipt of an execution of service by sheriff officers confirming that the place, date and time of the Case Management Discussion had been intimated to the Respondent, together with a copy of the case papers. In the circumstances the Tribunal, being satisfied in terms of Rule 24 of The First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (the "FTT Rules") that the Respondent had received reasonable notice of the same determined that it was appropriate to proceed in accordance with Rule 29 of the FTT Rules;
11. The Applicant's representative indicated that he was unaware as to whether the Respondent was still in occupation of the Property and, as such, an eviction order was sought;
12. It was indicated that the breach of tenancy terms referred to within the Notice to Leave related to non payment of rent. In terms of Ground 11 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") non payment of rent is not a matter which can be relied on under that particular provision;

FINDINGS IN FACT

13. The Tribunal found the following facts to be established:-
 - i. The Respondent rented the Property from the Applicant and took entry on 2 June 2018, that being the commencement date of the lease;
 - ii. The rent payable was £450 per calendar month;
 - iii. The Respondent stopped paying rent in November 2018. As at the date of the Case Management Discussion, therefore, the arrears of rent exceeded £8,000.00;
 - iv. The Landlord served a Notice to Leave on the Respondent. The notice was dated 7 August 2019. It stated grounds of eviction to be (a) that the respondent had breached a term of the tenancy agreement and (b) that the tenant was in arrears of rent for more than 3 consecutive months;
 - v. The notice to leave was served by Sheriff Officers on 9 August 2019;
 - vi. The Notice to Leave indicated that proceedings would not be raised before 1 November 2019;
 - vii. An application for eviction was received by the Tribunal on 9 January 2020;
 - viii. A notice in terms of s11 of the Homelessness (Scotland) Act 2003 had been served on the local authority;

- ix. The Respondent has been in arrears of rent for three or more consecutive months;
- x. On the first day the Tribunal considered the application on its merits the Respondent was in arrears of rent in an amount greater than one months rent;
- xi. The Respondent has been in arrears of rent for three or more consecutive months;
- xii. There was no information to indicate that any arrears were due to delay or failure in payment of any relevant benefit;

DECISION

The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 12 of schedule 3.

Grants order to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings furth and from the Property at 76 Kirk Street, Coatbridge, North Lanarkshire, ML5 1BP and to make the same void and redd that the Applicant or others in their name may enter thereon and peaceably possess and enjoy the same.

Date of Order: Order not to be executed prior to 12 noon on 13 April 2020

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.

V. Crawford

Legal Member/Chair

6 March 2020

Date