



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/19/1097

Re: Property at 25 Bridge Street, Elgin, IV30 4DE (“the Property”)

Parties:

Mr Timothy Weller, Mrs Karen Weller, South Villa, 41 Moss Street, Elgin, IV30 1LT (“the Applicants”)

Ms Nicola Homewood, 25 Bridge Street, Elgin, IV30 4DE (“the Respondent”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision in absence of the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent.

Background

This is an application dated 8th April 2019, made in terms of Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicants are seeking an eviction order in respect of the property on Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”).

The Applicants lodged a copy of the tenancy agreement between the parties which commenced on 26th October 2018. A copy Notice to Leave, served on 24th January 2019 by email and post, in terms of section 52(3) of the Act, was also lodged. A copy notice to the local authority, in terms of section 56(1) of the Act was also lodged, together with copy correspondence between the parties and the Title Sheet for the Property (MOR6232). The rent for the Property was £400, and the arrears at 2nd May 2019 were £944.14.

The Respondent did not make any written representations to the Tribunal.

A Case Management Discussion ("CMD") took place on 24th July 2019 at the Mercure Hotel, Church Street, Inverness. Both parties were in attendance. The Applicants had received payments of Universal Credit on 7th May, 7th June and 5th July. The payments were £255.86, £263.54 and £263.54 respectively. This did not cover the full rent and no further payments had been received from the Respondent. In total, the rent that should have been paid amounted to £3,600 and payments made to the Applicants amounted to £2638.80. This included a sum of £1200 paid by the Respondent's uncle. The outstanding rent amounted to £961.20.

The Respondent said she had recently started a new job and would get her first wage on 2nd August 2019. She would then be in a position to pay the full rent plus £50 to £100 per week towards the arrears.

The Applicants moved that the CMD be adjourned to allow the Respondent to begin making payments, with a further CMD in 6 to 8 weeks to allow the Respondent to make payment. The Respondent said she would pay the full rent on 2nd August 2019 and £100 per week towards the arrears. The CMD was adjourned to allow payments to be made as agreed.

By email dated 13th August 2019, the Applicants informed the Housing and Property Chamber that no sums had been received from the Respondent.

Case Management Discussion

A Case Management Discussion took place on 4th September 2019 at the Mercure Hotel, Church Street, Inverness. The Applicants attended by tele-conference. The Respondent was not in attendance. The Tribunal proceeded in terms of Rule 29 of the Rules as intimation of the CMD had been made upon the Respondent by letter dated 31st July 2019.

The Applicants said that there had been no contact from the Respondent and no payments made by her. The Applicants emailed her on 3rd August 2019 to enquire about payment and to provide her, again, with their bank details. A payment of £242.72 was made by Universal Credit on 7th August 2019. The arrears were now £1518.48.

The Applicants indicated that they had tried to be reasonable in allowing the Respondent an opportunity to commence payment following the last CMD. They moved for an eviction order to be granted.

Findings in Fact

1. The parties entered into a tenancy agreement in respect of the Property commencing on 26th October 2018.
2. The rent for the Property was £400 per month.

3. The Respondent has been in arrears of rent for three or more consecutive months.
4. At the date of the Case Management Discussion on 24th July 2019, the Respondent was in arrears of rent by an amount greater than the amount payable as one month's rent.
5. The Respondent's being in arrears over three or more consecutive months is not due to a delay or failure in the payment of a relevant benefit.

Reasons for Decision

Ground 12 of Schedule 3 of the Act provides that it is an eviction ground if, at the beginning of the day on which the Tribunal first considered the application for an eviction order on its merits, the Respondent was in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day; and had been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months. The Tribunal was satisfied that this was the case. Furthermore, the Tribunal was satisfied that the Respondent's being in arrears of rent over that period was not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. Accordingly, in terms of section 51(1) of the Act, the Tribunal considered it did not have discretion as to whether or not to grant an eviction order.

Decision

An eviction order is granted against the Respondent.

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.

Helen Forbes

4 September 2019

Legal Member/Chair

Date