

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/22/1266

Re: Property at 12 The Hill, Thornhill, Stirling, FK8 3PT (“the Property”)

Parties:

Mrs Ruth Robertson, Donnachaidh, Thornhill, Stirling, FK8 3QX (“the Applicant”)

Mr Thomas Stewart, 12 The Hill, Thornhill, Stirling, FK8 3PT (“the Respondent”)

Tribunal Members:

Gillian Buchanan (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

At the Case Management Discussion (“CMD”), which took place by telephone conference on 30 August 2022, the Applicant was present and represented herself. The Respondent was neither present nor represented and had lodged no written representations.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) had been satisfied relative to the Respondents having received notice of the CMD and determined to proceed in the absence of the Respondents in terms of Rule 29.

Prior to the CMD the Tribunal received from the Applicant an email dated 25 August with attachments.

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

Background

The Tribunal noted the following background:-

- The Property is owned by the Applicant and her husband, Mr Jamie Robertson.

- The Applicant and her husband leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 1 January 2019.
- The rent payable in terms of the PRT is £500 per month payable monthly in advance on the first day of each month.
- The deposit payable by the Respondent in terms of the PRT was agreed to be £500.
- That on 1 April 2022, the Applicant posted to the Respondent by recorded delivery post a Notice to Leave dated 31 March 2022 requiring the Respondent remove from the Property by 2 May 2022 on the basis that rent arrears had accrued over three consecutive months. The rent arrears due were then stated to be £2,850.
- That by email dated 4 May 2022 the Applicant had served on Stirling Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the CMD the Applicant made the following representations:-

- i. That the current rent arrears payable by the Respondent are £4,850.
- ii. That the last payment of rent received from the Respondent was £800 in March 2022.
- iii. That prior to the March 2022 payment the Respondent's previous payment of rent was in December 2021 in a sum of £200.
- iv. The Respondent is believed to still be in occupation of the Property.
- v. The Respondent resides in the Property alone.
- vi. That the Respondent is believed to be self-employed driving a snack van and has a taxi business.
- vii. That following service of the Notice to Leave the Respondent got in touch to say that he had money for the Applicant after which he made the payment of £800 referred to above.
- viii. That the Applicant has complied with the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 by emailing the Respondent in appropriate terms on each of 3, 12 and 21 March 2022 using the template wording for such communications as recommended by the Scottish Association of Landlords.
- ix. The Applicant also emailed the Respondent on 29 March 2022 asking him to acknowledge receipt of the pre-action communications and he replied by email on the same day acknowledging the communications.
- x. The Applicant received an Exemption Notice from Stirling Council dated 1 August 2022 crediting Council Tax and Water and Waste Water Charges for the period 31 July 2022 to 31 March 2023 on the basis that the Property was unoccupied and unfurnished. On receipt of that letter the Applicant sent a text message to the Respondent on 8 August 2022 asking him to confirm he had left the Property and enquiring where he had left the keys. The Respondent replied "Will be out this week". The Applicant has heard nothing more.
- xi. The Applicant sought an eviction order against the Respondent on the basis that it is reasonable for such an order to be granted in the circumstances.

The Pre-action Requirement communications were not included by the Applicant within her application. The Tribunal therefore briefly adjourned for the Applicant to email the communications to the Tribunal to consider the Applicant's submissions. During the adjournment the Applicant provided to the Tribunal her emails to the Respondent dated 4, 13 and 21 March 2022 with attachments. The Applicant also copied to the Tribunal her exchange of emails with the Respondent on 29 March 2022.

Findings in Fact

- i. The Property is owned by the Applicant and her husband, Mr Jamie Robertson.
- ii. The Applicant and her husband leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 1 January 2019.
- iii. The rent payable in terms of the PRT is £500 per month payable monthly in advance on the first day of each month.
- iv. The deposit payable by the Respondent in terms of the PRT was agreed to be £500.
- v. On 1 April 2022, the Applicant posted to the Respondent by recorded delivery post a Notice to Leave dated 31 March 2022 requiring the Respondent remove from the Property by 2 May 2022 on the basis that rent arrears had accrued over three consecutive months. The rent arrears due were then stated to be £2,850.
- vi. That the current rent arrears payable by the Respondent are £4,850.
- vii. That the last payment of rent received from the Respondent was £800 in March 2022.
- viii. That prior to the March 2022 payment the Respondent's previous payment of rent was in December 2021 in a sum of £200.
- ix. The Respondent is believed to still be in occupation of the Property.
- x. That the Applicant has complied with the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.
- xi. By email dated 4 May 2022 the Applicant had served on Stirling Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- xii. In the circumstances it is reasonable to grant an eviction order.

Reasons for Decision

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant within the application and ancillary papers, and orally at the CMD was not challenged and was accepted by the Tribunal.

The rent arrears are substantial being a total of almost 10 months rent and reflect the Respondent having made no effort to reach a payment arrangement with the Applicant.

The Tribunal considered whether or not it would be reasonable to grant an eviction order and determined that it is reasonable to grant an eviction order under Ground 12 of Schedule 3 of the 2016 Act.

Decision

The Tribunal grants an order for the Respondent's eviction from the Property.

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.

G. Buchanan

Legal Member/Chair

30 August 2022
Date