



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/22/2335

Re: Property at 0/1 55 St Mungo Avenue, Glasgow, G4 0PL (“the Property”)

Parties:

Mr Ali Said, 2 Prestwick Place, Glasgow, G77 5AY (“the Applicant”)

Miss Simone Nesbitt, 0/1 55 St Mungo Avenue, Glasgow, G4 0PL (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted in relation to the let property in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) 2016 in that the Respondent has been in rent arrears for three or more consecutive months and it is reasonable on account of that fact to grant an eviction order.

Background

1.This application for an eviction order in terms of Rule 109 was first lodged with the Tribunal on 13th July 2022 and accepted by the Tribunal on 31st October 2022.A case management discussion was fixed for 3rd February 2023 at 2pm.

The Case Management Discussion

2.The case management discussion was attended by the Applicant who represented himself. There was no appearance by or on behalf of the Respondent. The Tribunal noted that the application, supporting papers and the date of the case management discussion had been intimated to the Respondent personally by Sheriff Officer on 30th

November 2022. The Tribunal was satisfied that the Respondent had received fair notice of the application and case management discussion in terms of the Tribunal rules of procedure and that it was appropriate to proceed in her absence.

3. The Tribunal had sight of the application, a private residential tenancy agreement, a Notice to Leave, a notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 with an email dated 22/9/22 sending this to Glasgow City Council, a deposit information certificate, a payment notice from Glasgow City Council, a current account screenshot, Halifax current account statements, a rent statement, a letter indicating that the rent could be decreased if the arrears were cleared, letters and emails between Glasgow City Council and the Applicant, a letter setting out the communication between the parties, screenshots of text messages, a rent statement up to July 2022, an email regarding Housing Benefit. Letters to the Respondent from the Applicant in September 2021, July and October 2022. In addition the Tribunal had sight of a rent arrears statement dated September 2022 setting out what was owed as of that month.

4. The Applicant Mr Said indicated to the Tribunal that he had tried to be helpful to the Respondent who lived at the property with her two school age children whom the Applicant believed to be primary school age. He said that he had tried to reach agreement with the Respondent many times, had tried to deal with her housing officer whom he named as Angela, in order to communicate with the Respondent and had also tried to communicate the Respondent's social worker and her mother. Mr Said was not aware as to why the Respondent had a social worker but had been advised during the tenancy that she had a social worker.

5. Mr Said advised that when the tenancy agreement had been signed on 10th September 2019 the Respondent knew that the monthly rent for the property was £1000 per month. At the start of the tenancy the Applicant understood that housing benefit would pay £960 of the monthly rent each month and that the Respondent would top up this payment with the remaining £40 per month due. Mr Said had received payments of housing benefit of various amounts during the tenancy, but the last payment of housing benefit had been paid in March 2022 and no rent had been received since that date. He had contacted the Housing Benefit office regarding the matter and had been advised that he would need to contact the Respondent regarding the rent arrears as at that time there was no live claim as at May 2022. He had earlier received a letter from Glasgow City Council dated 23rd March 2022 advising that the Respondent's Housing Benefit claim had been suspended with effect from that date. The Respondent had paid no rent since that date and Mr Said considered that she had not provided what was required to the Housing Benefit section of the council to allow the benefit to be reinstated.

6. From the papers submitted by the Applicant to the Tribunal it was clear that arrears had started to accrue early in the tenancy. Arrears started to accrue in October 2019 and as at 10th March 2020 stood at £1705. In February 2020 the Respondent had allowed her £1000 deposit to be transferred from an approved deposit scheme to be used towards the rent arrears. Total arrears as at December 2020 stood at £3573. Mr Said had advised Glasgow City Council at that time that if the rent arrears were cleared that he would reduce the rent to £900 per month as they had requested in November 2020 that he consider reducing the rent as the Respondent was in financial difficulties.

7. Mr Said advised the tribunal that rent arrears had continued to accrue at the property in 2021 and by the time a Notice to Leave was served these had reached £4909.51. In September 2021 the Applicant personally served a Notice to Leave on the Respondent dated 21st September 2021 and on the same date he wrote to the Respondent explaining that the rent was still in arrears and signposting her to sources of help. In this letter he explained that he had served a notice to Leave and had six months before he could apply to the Tribunal but that he did not wish to take this step and wanted to work with her to assist her to pay the rent arrears. Mr Said lodged a series of text messages between him and the Respondent. In a text in March of 2022 the Respondent asked for another copy of the eviction notice as she said she had mislaid it when "gutting" the house. In a later text message, the Respondent said that she would be "out of here asap". Mr Said was asked by the Tribunal if the Respondent was still in occupation at the property and he confirmed that she was. Mr Said advised that the Respondent had lost her key a few days before the case management discussion and had phoned him to ask if he could provide her with a spare key. He had agreed to do that but had not required to supply it as she had later found the key under her son's bed.

8. Mr Said advised the Tribunal that the continuous rent arrears had reached almost £18000 and were causing him financial difficulty as he had a mortgage to pay and he had three children, 2 of whom were at university. His wife worked but as of the date of the case management discussion he indicated he could not continue this way and had tried to help over a long period. He wanted to recover the property and start again.

9. In July 2022 Mr Said had sent another letter to the Respondent regarding the rent arrears which were over £11,000 at that stage and again he had signposted her to sources of assistance. In October 2022 he had sent a third letter to the Respondent when the rent arrears were in excess of £13000. The Respondent had signed a copy of this to say that she had received it

10. Mr Said indicated that he had received notification from Universal Credit that he was owed £4500 by them for the period between May to November 2022 and he had been paid. In January 2023 he had received £750 and was to receive £804 on a four weekly basis going forward. This did not deal with the substantial arrears which remained.

11. On 22nd September 2022 the Applicant intimated a Notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 to Glasgow City Council regarding the Respondent.

12. The Tribunal was satisfied it had sufficient information upon which to make a decision.

Findings in Fact

13. The Applicant and Respondent entered into a private residential tenancy at the let property in September 2019.

14. The monthly rent due in advance in terms of the tenancy agreement is £1000 per month.

15. At the start of the tenancy some of the rent was paid by Housing Benefit with the Respondent due to pay the shortfall between the Housing Benefit payments and the monthly rent due for the let property.

16. Housing benefit of varying amounts was paid during the tenancy up to March 2022. Rent arrears at the tenancy started in October 2019 and have continued to accrue since then.

17. In March 2020 rent arrears stood at £1705 and the Respondent had permitted her deposit of £1000 to be used to reduce the rent arrears.

18. A Notice to Leave in proper form and giving proper notice was personally served on the Respondent by the Applicant on 21st September 2021 when the accrued rent arrears exceeded £4900.

19. In March 2022 no further housing benefit payments were received and the Applicant was advised that the Respondent's Housing Benefit claim had been suspended.

20. In May 2022 the Applicant was advised that there was no longer a live Housing benefit claim in relation to the let property and that he would need to contact the Respondent regarding the rent arrears at the let property.

21. By October 2022 rent arrears at the let property exceeded £13,000.

22. The Applicant has been advised that Universal Credit owe him £4500 for rent at the property between May and November 2022 and this has been paid to him.

23. The Applicant received £750 in a payment from universal credit towards the rent at the let property in January 2023 and understands he will receive four weekly payments towards the rent going forward from the same source.

24. Rent payments at the property have been in continuously in arrears since October 2019 and are approximately £12000 as at the case management discussion date in February 2023 when the universal credit payment set out at finding in fact 22 is taken into account.

25. The rent arrears accrued in relation to rent at the let property are not as a result of delay or failure in the payment of a relevant benefit on behalf of the Respondent.

26. The Applicant sent three letters to the Respondent between September 2021 and October 2022 explaining the level of rent arrears to the Respondent and signposting her to sources of help.

27. The Applicant sent by email a notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 to Glasgow City Council.

28. The Applicant has his own financial concerns and cannot afford the continuing level of rent arrears accrued during the tenancy as he has own mortgage to pay.

Reasons for Decision

29. The Tribunal was satisfied that the eviction ground was made out in this application and that it was reasonable to grant the order. The Notice to Leave has been properly served and a s11 Notice had been properly intimated to Glasgow City Council. The Respondent had not engaged with the Tribunal at any stage and had not suggested it was unreasonable to grant an eviction order. This was an application where Housing Benefit had been paid for a good number of months during the tenancy, but the Respondent had not been able to pay the shortfall between the housing benefit and the rent due. Housing Benefit had been suspended in March 2022 and had then ceased. Rent arrears had accumulated continuously since October 2019 and had reached a substantial sum. Although in the last few months before the case management discussion universal credit appeared to be dealing with some of the arrears on an ongoing basis, substantial rent arrears had accrued and remained. This

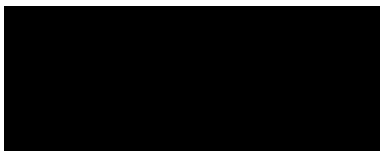
was putting the Applicant under financial pressure with the payment of his own mortgage. It was appropriate to grant an eviction order in all of these circumstances.

Decision

The Tribunal determined that an eviction order be granted in relation to the let property in terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) 2016 in that the Respondent has been in rent arrears for three or more consecutive months and it is reasonable on account of that fact to grant an eviction order.

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.



Legal Member/Chair

3.2.23

Date