



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/23/0140

Re: Property at Flat 6, 171 Bank Street, Coatbridge, ML5 1HA (“the Property”)

Parties:

McNinch Property Holdings Ltd, The Albany, South Esplanade, St Peters Port, Guernsey, GY1 1AQ (“the Applicant”)

Mr Martin McGeough, Flat 6, 171 Bank Street, Coatbridge, ML5 1HA (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member) and Eileen Shand (Ordinary Member)

1. Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for the eviction of the Respondent from the property at flat 6 171 Bank Street Coatbridge ML5 1HA be made, on ground 12A (substantial rent arrears in excess of 6 months) and it is reasonable in all of the circumstances that the eviction be granted.

Background

2. This was a case management discussion (‘CMD’) in connection with an Application for eviction in terms of rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Procedure Regulations 2016, (‘the rules’) on ground 12A (substantial rent arrears) of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016’ the Act’. The Applicant was represented by Ms

Emma Park of ProBrook Properties. The Respondent did not attend and was not represented.

3. The tribunal had before it the following copy documents:

- Application dated 12 January 2023.
- Land certificate.
- Landlord registration details.
- Private Residential Tenancy Agreement.
- Guarantee dated 12 December 2018.
- Pre-action requirements letter dated 1 December 2023.
- Notice to leave dated 7 December 2022.
- Email serving notice to leave dated 7 December 2022.
- Rent statement.
- S11 notice and proof of service.
- Execution of service by sheriff officers dated 7 March 2023.

4. Preliminary matters

(1) The Respondent did not attend the CMD and was not represented. The tribunal noted that the notice to leave refers to rent arrears as an eviction ground but also states that the Respondent is not residing in the let property. The Application was served by sheriff officer, who deposited the Application on 7 March 2023. The tribunal required to be satisfied that the Respondent had received appropriate notice of the Application and if he was not residing in the property this may not have happened. Ms Park gave evidence that Probrook Properties took over the management of the property on 1 December 2022. She visited the property at the beginning of December 2022 and she thought the property looked uninhabited. There was construction work taking place on the roof and the contractors had not seen anyone coming and going from the property. She changed her view however due to complaints that Probrook have received from the tenant at flat 3 in the block at 171 Bank Street. This flat is also managed by Probrook and owned by the Applicant. Flat 3 is directly below the property. The tenant at flat 3 has complained of noise coming from flat 6 on several occasions and most recently on 7 April 2023. Ms Park stated that she first received a complaint around February 2023. Having received this information the tribunal was satisfied that the Respondent was residing in the property and had received appropriate notice of the Application. The tribunal proceeded in his absence.

(2) The tribunal noted that the Application referred to the notice to leave being served both by hand and by email. The notice to leave was served by email on 7 December 2022. The PRT makes provision for service of notices by email but there is no email address for the Respondent given in the PRT. Ms Park stated that the email address used was the usual email address that the previous agents had been using for the Respondent. She also stated that she

personally put a copy of the notice to leave through the letter box of the property on 7 December 2022.

5. Discussion

Ms Park stated that the rent arrears have continued to accrue and they now stand at £6417.67. The Respondent has a guarantor and she had been paying some of rental payments in the past but not recently. Ms Park stated that the Respondent had not been in receipt of housing benefit throughout the tenancy and to the best of her knowledge the Respondent was the sole occupant of the property.

6. Findings in fact

- The Applicant is the owner and registered landlord of the property.
- The parties entered into a private residential tenancy for let of the property on 30 and 31 December 2018 for let of the property from 15 October 2018.
- The agreed monthly rent was £535.
- Rent arrears began to accrue in August 2020.
- The Applicant served the Respondent with a valid notice to leave on 7 December 2022.
- The notice to leave expired on 8 January 2023.
- The rent arrears on 7 December 2022 were £4812.67.
- The rent arrears when the Application was made on 12 January 2023 were £5347.67.
- The rent arrears as at 14 March 2023 are £6417.67.

7. Reasons

This is an undefended eviction Application. The tribunal was satisfied that the Respondent had received a valid notice to leave and the procedure has been fair. The Applicant had complied with the pre-action requirements. The tribunal was satisfied that the rent arrears are not wholly or partly due to a delay in the payment of a relevant benefit. The rent arrears are substantial and in excess of the 6 months required in terms of ground 12 A of schedule 3 of the Act. The tribunal was satisfied that it is reasonable in all of the circumstances to grant the eviction.

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.

Lesley-Anne Ward

Lesley Anne Ward

11 April 2023

Legal Member

Date