



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/23/1048

Re: Property at 19 1/2 Renfield Street, Renfrew, PA4 8RG (“the Property”)

Parties:

Mr Peter Berry, 28B Liberton Brae, Edinburgh, EH16 6AF (“the Applicant”)

Mr Robert Sutherland, 19 1/2 Renfield Street, Renfrew, PA4 8RG (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 29th March 2023. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to ground 12 of the Private Housing (Tenancies) Act 2016.
2. On 18th May 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 22nd June 2023 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 8th June 2023.
3. On 19th May 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 19th May 2023.

4. On 2nd June 2023 the Applicant's solicitor emailed the Housing and Property Chamber motioning to amend the ground to 12A due to substantial rent arrears. The emailed included a Form E, Notice to Leave, email to Respondent containing the Notice to Leave and a rent statement for the period 1st October 2022 to 31st May 2022. The Notice to Leave was dated 18th May 2023.

The Case Management Discussion

5. A CMD was held on 22nd June 2023 at 2pm by teleconferencing. The Applicant was represented by Mr John McKeown, solicitor, Jackson Boyd solicitors. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules.
6. Mr McKeown said that the arrears had now risen to £2800. There have been no further payments. The Respondent had spoken to the Applicant's letting agent just after the amended Notice to Leave was served. He had told the letting agents that he did not intend to move as he required to be evicted to be rehoused by his local authority. Mr McKeown said that the Respondent had no known disabilities or vulnerabilities. It was the Applicant's understanding that the Respondent was working when he entered into the lease.
7. Mr McKeown motioned for the Tribunal to grant an order for eviction based on the amended ground of 12A.
8. The Tribunal considered that there were no issues of reasonableness preventing an order being granted under ground 12A.

Findings and reason for decision

9. A Private Rented Tenancy Agreement commenced 1st October 2022.
10. The Respondent persistently failed to pay his rent charge of £400 per month. The rent payments are due to be paid on the 1st day of each month.
11. A Pre Action Requirement letter was sent to the Respondent on 20th January 2023.
12. Arrears accrued to more than one months rent payment at the date of application and was more than three months rent payments at the date of the CMD.
13. The Respondent has accrued more than 6 months rent arrears which means that it is appropriate to grant an order under ground 12A.
14. There are no outstanding Universal Credit issues.

15. The arrears sought totalled £2800. The Tribunal was satisfied that the Respondent had been aware that a higher amount was detailed in the application dated 29th March 2023 in the application.

16. There were no issues of reasonableness to prevent an order for eviction being granted.

Decision

17. The Tribunal found that ground 12A has been established and granted an order for eviction of 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.



22 June 2023

Legal Member/Chair

Date