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/20/0274

Re: Property at 9 Well Road, Glenrothes, KY7 5HJ ("the Property")

Parties:

Mr Robert Aimer, 49 Kilmaron Crescent, Cupar, KY15 4DS ("the Applicant")

Mr Graeme Ford, 9 Well Road, Glenrothes, KY7 5HJ ("the Respondent")

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision

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 on 27th January 2020. It was dated 22nd January 2020. 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. The case was conjoined with case FTS/HPC/CV/20/0278

The Case Management Discussion

3. A CMD was held on 9th July 2020 at 10am by teleconference due to Covid 19 restrictions. The case had originally been set to be heard on 27th March 2020

but postponed due to Covid 19 restrictions. The Applicant was represented by Ms Shannon Gaughan, solicitor, Clarity Simplicity solicitors. The Applicant was not present but his brother, Mr Stuart Aimer, dialled into the call as an observer. He took no part of the hearing. The Respondent did not make representations in advance of the hearing. The Respondent gave evidence that he did not dispute the arrears. He informed the Tribunal that he had stopped making payments initially due to needing to fix his car as he is a taxi driver. He then continued not to pay his rent due to a relationship breakdown with the Applicant. He took a position that he did not wish to make his rent payments for this reason. During lockdown he has not been working but has been signing on for benefits. He has not applied for Housing Benefit as he was asked if he was paying rent and as he considered that he was not he did not look to proceed with an application for Housing Benefit.

Findings and reason for decision

4. A Private Rented Tenancy Agreement commenced 1st November 2018. The Parties entered into a short assured tenancy agreement. As this was after 1st December 2017 this tenancy defaults to a Private Rental Tenancy under Scottish Government model agreement.

5. The Respondent persistently failed to pay his rent charge of £500 per month. The rent payments are due to be paid on 1st day of each month.

6. 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 Notice to Leave and the hearing.

7. There are no outstanding Housing Benefit issues.

8. The arrears sought totalled £6000. This is an increase on the amount originally sought in the application. The Applicant had sent notification of the increased amount to the Housing and Property Chamber. This was sent on to the Respondent. Tribunal was satisfied that the Respondent had been aware that a higher amount was being sought in the application as he was present and had confirmed that he had received the notification of the increase in the arrears.

Decision

9. The Tribunal found that ground 12 has been established and the Tribunal granted an order in favour of the Applicant.

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.

Gabrielle Miller

9th July 2020

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Legal Member/Chair   **Date**