



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/20/0816

Re: Property at 49 Innerwood Road, Kilwinning, KA13 7DX (“the Property”)

Parties:

Mrs Patricia Adam, 44 Caledonia Road, Stevenson, KA20 3LG (“the Applicant”)

Miss Taylor Wilson, 49 Innerwood Road, Kilwinning, KA13 7DX (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision

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

Background

1. An application had been received under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking recovery of possession under a private residential tenancy by the Applicant against the Respondent for the Property.
2. The application contained: -
 - a copy of the tenancy agreement,
 - a copy of the notice to leave with evidence of service
 - a copy section 11 Notice
 - a copy of the Respondents’ rental statement
3. Both the Applicant’s agent, Ms Boyd from Move2 Lettings Limited and Respondent appeared. Service of the application had been made by sheriff

officers. The Respondent confirmed that she had received a copy of the Application. She confirmed that she was not disputing the application.

Hearing

4. The Applicant's agent advised that she was seeking an order for recovery of the possession of the property under the ground 12 (rent arrears for 3 months).
5. The rent arrears were still outstanding and had in fact increased and were now £3,002.85p as at 17 August 2020. They were in excess of one month's rent and had been outstanding for more than 3 months. Some payments to rent had been, but a number had been missed and the arrears had continued to accrue. The Applicant's agent advised that the arrears which were due, were in fact higher than the amount shown on the notice to leave. The rent was £500 per month, the sum on the rent schedule showed 4 weekly payments.
6. The Respondent accepted that there were rent arrears albeit she queried whether she was due as much as £3002.85p. She did not dispute the rent arrears were due, and had been due for more than three months. She advised that she had made some payments to rent but she accepted that she had also missed a number of rent payments. She advised that she had spent her first universal benefit payment for rent on living expenses, she had not put it rent. She confirmed that there were no outstanding benefit issues which had led to the rent arrears. She advised that she did not oppose the application for eviction.

Findings in Fact

7. The Tribunal found the following facts established: -
8. There existed a private residential tenancy between the Applicant and the Respondent. It had commenced on 7 January 2019.
9. Condition 8 entitled "Rent" of the Tenancy Agreement provides that the rent for the property is £500.00 per month payable in advance.
10. There was a notice to leave addressed to the Respondent. It contained information for the Respondent as to why an eviction order was sought. It was dated 17 December 2019. It confirmed that proceedings would not be brought until 16 January 2020. It had been sent by recorded delivery post to the Respondent on 17 December 2019. The ground in the notice to leave was ground 12 "you are in rent arrears over three consecutive months".
11. That there appears to have been rent arrears for a period of at least 3 months on the date when the notice to leave was served.
12. That rent arrears were now £3,002.85.

13. There are rent arrears outstanding at today's date totalling at least one month's rental due under the tenancy.
14. The section 11 notice had been sent to the local authority providing them with notice of the intention to raise recovery proceedings.

Reasons for Decision

15. Section 51 of the 2016 Act provides the Tribunal with a power to grant an order for eviction for a private residential tenancy, if it found that one of the grounds in schedule 3 of the Act applies.
16. The ground which the Applicant seeks eviction under is ground 12 rent arrears.
17. Sub paragraph 1 states that "It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months."
18. Sub paragraph 3 provides that the Tribunal may find that the ground named in sub-paragraph 1 applies if (a) for three or more consecutive months the tenant has been in arrears of rent; and (b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.
19. The Respondent did not oppose the application. The Respondent agreed that rent arrears were outstanding. On the day that the notice to leave had been served the Respondent had been in rent arrears for at least three months. The arrears had now increased. I was advised by the Respondent that the arrears had not been caused by any delay in the payment of benefits. It appeared that the terms of sub-paragraph 3 were met. I was therefore prepared to find that the ground in sub paragraph 1 applies. I therefore grant an eviction order in terms of ground 12 rent arrears.

Decision

20. The Tribunal grants an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 12 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

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.

Melanie Barbour

17th August 2020

Legal Member/Chair

Date