



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/20/1110

Re: Property at 18 Sunnybraes Terrace, Steelend, Dunfermline, KY12 9NE (“the Property”)

Parties:

Miss Jeanette Laidle, 1 Ailsa Grove, Kirkcaldy, Fife, KY2 6SE (“the Applicant”)

Mr Keiron Stewart, 18 Sunnybraes Terrace, Steelend, Dunfermline, KY12 9NE (“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 and Respondent appeared. Service of the application had been made by sheriff officers. The Respondent confirmed that he had

received a copy of the Application. He confirmed that he was not disputing the application.

Hearing

4. The Applicant 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 with £2685 owing as at 28 July 2020. They were in excess of one month's rent and had been outstanding for more than 3 months. There appeared to have been no payments to rent or arrears for a number of months. The Applicant advised that the arrears which were due, were in fact higher than those the amount shown on the notice to leave, and further rent arrears had also been outstanding since at August 2019.
6. The Respondent accepted that there were rent arrears. He did not dispute the amount due as set out in the rent schedule. He queried the sum as it was different from the amount shown on the notice to leave, but accepted the explanation of the amount of arrears as explained by the Applicant. He agreed that he had received the notice to leave. He advised that he 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 18 May 2019.
9. Condition 7 entitled "Rent" of the Tenancy Agreement provides that the rent for the property is £425.00 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 12 March 2020. It confirmed that proceedings would not be brought until 10 April 2020. It had been emailed to the Respondent on 11 March 2019 and hand delivered to him the following day. 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 £2685.00.
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 not advised that the arrears had 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

10th August 2020

Legal Member/Chair

Date

