



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/20/1412

Re: Property at 3/3, 16 Leyden Gardens, Glasgow, G20 9TR (“the Property”)

Parties:

Miss Nicola Graham, 47 Hillhead Street, Glasgow, G12 8QA (“the Applicant”)

Mr John Brown, 3/3, 16 Leyden Gardens, Glasgow, G20 9TR (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction should be granted.

Background

The Applicant lodged an application with the Tribunal on 24th June 2020 under Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017, seeking an order for eviction under Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.

Lodged with the Application were:

1. Copy Tenancy Agreement
2. Copy Notice To Leave with proof of service
3. Copy Section 11 Notice with proof of service
4. Statement of Arrears

Case Management Discussion

The CMD took place by teleconference. The Legal Member instructed the clerk, Miss Thomson, to wait until 11.35 before beginning the CMD, which was to allow the parties time to dial in.

Mr John Munro of GBS Lets Ltd dialled in on behalf of the Applicant. No one dialled in on behalf of the Respondent. The Legal Member was satisfied that the Respondent had received notification of the date and the dial in details, and began the CMD.

Mr Munro advised the Tribunal that the Respondent still resided in the property. He lodged an up to date rent statement on 20th August 2020 to show the current position. He said that the respondent had moved in to the property in May 2019. Rent had been paid without difficulty until November 2019. No rent has been paid since. A series of text messages between Mr Munro and the Respondent had also been lodged. The Respondent had made many excuses, and promises of payment. He said that he had applied for Universal Credit. Mr Munro confirmed that he personally had phoned Universal Credit in April 2020 and had been told that there was a live claim. He asked for direct payment. The procedures for obtaining that changed. The first direct payment made to the letting agent was for £350 and was made on 13th August 2020. As at that date the outstanding arrears stood at £3650.

Findings In Fact

1. The parties entered in to a Private Residential Tenancy agreement in relation to the property, commencing 22nd July 2019;
2. The rent was £500 per calendar month;
3. Notice to Leave was served on 2nd April 2020;
4. At the date of service of the Notice To Leave the arrears were £1500, which equals three months' rent;
5. The arrears when the Application was made were £3000;
6. The arrears are now £3650;
7. The arrears have not been caused by the delay in payment of a relevant benefit.

Reasons For Decision

Ground 12 states as follows:

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at the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, the tenant—

is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and

(ii) has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, and

(b) the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.

(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.

(a) references to a relevant benefit are to—

(i) a rent allowance or rent rebate under the [Housing Benefit \(General\) Regulations 1987 \(S.I. 1987/1971\)](#),

(ii) a payment on account awarded under regulation 91 of those Regulations,

(iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,

(iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,

(b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.

The Tribunal was satisfied that the ground had been met and it was entitled to grant the order for 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.

A Kelly

Legal Member/Chair

3 September 2020
Date