



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) Act 2016

Chamber Ref: FTS/HPC/EV/20/2571

Re: Property at 1 Brae Street, Ground Floor, Dunkeld, PH8 0BA (“the Property”)

Parties:

Mr Reigh Sneddon, 4 Knowelea Terrace, Perth, PH2 0HQ (“the Applicant”)

Mr Nicholas Greig, 1 Brae Street, Ground Floor, Dunkeld, PH8 0BA (“the Respondent”)

Tribunal Members:

Lesley-Anne Mulholland (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction be granted in favour of the applicant.

BACKGROUND:

1. On 5 December 2020 the applicant applied for an order for eviction and possession of the property on the basis of Part 1 Ground 1 and Part 3, Grounds 11 and 12 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 18 January 2021, a Legal Member of HPC with delegated powers, accepted the application and referred it under rule 9 of the Rules to The Tribunal for a full hearing.

3. Intimation of the hearing along with a copy of the application and supporting documentation was served on Mr Grieg by Sheriff Officers on 19 January 2021.
4. The relevant papers before us included amongst other things the Private Residential Tenancy Agreement dated 18 August 2018; Notice to Leave dated 12 May 2020; Notice under section 11 of the Homelessness etc (Scotland) Act 2003; Title Information relative to the property – 76-105 and Certificate of Execution of Service dated 19 January 2021.

HEARING

1. On 26 February 2021 a hearing was convened by telephone at 10.00am as notified. Mr Sneddon (The Applicant, landlord and rightful owner) was in attendance. There was no appearance by or on behalf of the tenant, Mr Greig (The Respondent).
2. We were satisfied that the Notice of Hearing had been served on Mr Greig in time together with a full set of papers and that he had failed to respond. He therefore waived his right to attend or be represented and we decided to proceed in his absence. We had regard to the overriding objective and were satisfied that it was fair and just to proceed in his absence. We were satisfied that we had sufficient information before us to decide the application at the case management stage.
3. Mr Sneddon advised that Mr Greig last made payment of rent on the 18th of September 2020. Since then contact between them has been sporadic. He has tried to communicate with Mr Greg in various ways. On several occasions he emailed him to ask if he had any proposals to put forward to meet his rental obligations. He would later be contacted by Mr Greig by telephone who would claim that his Internet was not working. Mr Sneddon would then contact Mr Greig by text message, which he would then ignore saying that his phone was no longer working and asking to be contacted by email. He sent a copy of

the outstanding rent account in the sum of £1,600 last week to him by email. In December 2020 he put a card through his door as he required to carry out emergency repairs but got no reply. Mr Greig last made contact with him in September or October 2020 to the best of his knowledge and belief.

4. Mr Sneddon thought that he could be struggling financially and therefore sent advice to him which can be found on the 'Shelter' and Government websites advising him about the possibility of claiming social security benefits and housing benefit and encouraging him to get in touch. He never received any response from him and therefore is unaware as to whether he is working , claiming benefits or something else. He has no awareness of his financial or employment status. As far as he knows Mr Greig lives alone as the tenancy agreement specifies this. He is not aware of him having any health issues.
5. He wishes to sell the property as he has now reached retirement age and wishes to retire. The notice to leave sent to Mr Greig specifies that an eviction and payment order is being sought because he wishes to sell the property and because he has accrued more than three months continuous rent arrears.

FINDINGS IN FACT

1. Mr Sneddon is the beneficial owner of the property and is entitled to sell the property and/or to put it up for sale.
2. He has engaged an estate agent concerning the sale of the let property and obtained a single survey home report dated 16 December 2019.
3. He has instructed Ross McDonald 'Portfolio - The Landlord's Estate Agent' to market and sell the property who has confirmed that he must await confirmation from the tenant that he has vacated the property or received the appropriate approval from the First-tier Tribunal for Scotland after which he will arrange for the marketing photographs and virtual tour to be carried out and the home report to be refreshed.

4. He intends to sell the property within 3 months of Mr Greig's departure.
5. Mr Greig has accrued rent arrears of at least 3 continuous months as at the date of application and decision.
6. At the date of application the rent arrears were £1,100.
7. At the date of hearing the rent arrears were £1,660.
8. A Section 11 report has been sent to the Local Authority on 20 January 2021 and served on Mr Greig as confirmed by the Local Authority in their email of 25 January 2021.
9. Mr Greig has failed to engage meaningfully with Mr Sneddon since at least June 2020.
10. Mr Greig last made any attempt to meet his rent liability and arrears on 16 September 2020.

REASONS FOR DECISION

1. We were satisfied that Mr Sneddon intends to market and sell the property as the letter from 'Portfolio - The Landlord's Estate Agency' and the Single Survey Home Report show. Mr Greig has been properly notified of the application. He has therefore been given an opportunity to make representations and attend the hearing. He has failed to engage with The Tribunal and meaningfully engage with Mr Sneddon. Accordingly there is no information before us to contradict Mr Sneddon's stated position in respect of the rent arrears and/or of his intention to sell the property. The documentary evidence presented by Mr Sneddon includes a schedule of outstanding rent payments alongwith a letter and a survey report from the proposed marketing agents. We accept that Mr Sneddon has instructed the selling agent which

supports his assertion that he intends to sell the property. Accordingly we accept that it is his intention to market and sell the property within 3 months of Mr Greig vacating the property.

2. When Mr Sneddon gave Mr Grieg the Notice To Leave and when he was notified by HMCTS of the applications for a payment order and an eviction order, the amount of rent arrears stood at £1,100. We were satisfied that Mr Grieg was informed of the amount of the payment order sought at least 14 days before the hearing.
3. Mr Sneddon submitted an updated schedule of rent arrears on 17 February 2021 showing outstanding arrears of £1,660.00. This was sent to Mr Grieg less than 14 days before the hearing. Accordingly, we decided not to allow the amendment and proceeded on the basis of the outstanding amount properly notified in time to Mr Grieg in the sum of £1,100. We were satisfied that Mr Greig had accrued more than 3 continuous months' rent arrears.
4. We considered the terms of the Coronavirus (Scotland) Act 2020. We were satisfied, using our discretion, that the granting of an eviction order was reasonable in all the circumstances. We placed great weight upon Mr Grieg's failure to engage meaningfully with Mr Sneddon and The Tribunal, the low rental monthly payment which is less than the maximum amount allowed through Housing Benefit Legislation and the significant arrears accrued over a substantial period. We had no information before us to indicate that he has any health or other issues and Mr Greig has not contradicted Mr Sneddon's account in any way. Accordingly, we decided to make an order for eviction under Schedule 3, Part 1, Ground 1 and Schedule 3, Part 3, Grounds 11 and 12.

DECISION

The application is allowed. An eviction order has been granted.

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.

L-A Mulholland

Date: 26 February 2021

Legal Member