



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/20/2587

Re: Property at Flat 17, Number 17 Great Northern Road, Aberdeen, AB24 3PS (“the Property”)

Parties:

Cito Cimo Residence Ltd, 20 Westburn Road, Aberdeen, AB25 2PX (“the Applicant”)

Mr Daniel Paul Kane, Flat 17, 17A Great Northern Road, Aberdeen, AB24 3PS (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

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.

1. An application was received by the Housing and Property Chamber. It was dated 11th December 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 Schedule 3 of the Private Housing (Tenancies) Act 2016.
2. On 4th February 2021, all parties were written to with the date for the Case Management Discussion (“CMD”) of 9th March 2021 at 10am at by teleconferencing. The letter also requested all written representations be submitted by 25th February 2021.

3. On 5th February 2021, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent personally. This was evidenced by Certificate of Citation dated 5th February 2021.
4. The case was conjoined with case FTS/HPC/CV/20/2590

The Case Management Discussion

5. A CMD was held on 9th March 2021 at 10am by teleconferencing. The Applicant was represented by Dr Mohammad Namavar, Director, Cito Cimo Group. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. Neither party made representations in advance of the hearing.
6. The Applicant informed the Tribunal that the last payment made was on 27th January 2020. When the payment on 27th February 2020 was missed he contacted the Respondent who told him that the DWP would be making it up. The Applicant tried to contact the DWP for further information but was not given any further information. The Applicant believes that the Respondent may have been in and out of work but does not know this for certain. He did not believe that there were any outstanding Housing Benefit (or Universal Credit Housing Element) issues. The arrears currently outstanding are £5295 as at 1st March 2021. The amount sought was not increased from £4065 when the application was lodged.

Findings and reason for decision

7. A Private Rented Tenancy Agreement commenced 17th December 2019.
8. The Respondent persistently failed to pay his rent charge of £410 per month. The rent payments are due to be paid on first day of each month.
9. Arrears accrued to more than three months rent payment at the date of the Notice to Leave and was more than three months rent payments at the date of the hearing.
10. The Notice to Leave was dated 2nd June 2020 and served upon the Applicant on the same date by email. The Notice to Leave stipulated that an application would not be raised before 5th December 2020. The application was dated 11th December 2020.
11. There are no outstanding Housing Benefit issues.
12. The arrears sought totalled £4065. The arrears have continued to accrue since the application to £5295.

Decision

13. The Tribunal found that ground 12 has been established and the granted an order for eviction 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 March 2021

Legal Member/Chair

Date