



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/21/0960

Re: Property at Flat 2, 22 High Patrick Street, Hamilton, ML3 7JB (“the Property”)

Parties:

Mrs Harbhajan Kaur, 26 Blenheim Ave, Glasgow, G33 6DJ (“the Applicant”)

Ms Mandy Hanlon, Flat 2, 22 High Patrick Street, Hamilton, ML3 7JB (“the Respondent”)

Tribunal Members:

Jan Todd (Legal Member) and Janine Green (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for repossession against the Respondent.

Background

1. The Applicants submitted an application for repossession of the Property from the respondent dated 19th April 2021.
2. In support of their application they lodged the following documents:-
 - a. A copy of the lease dated 20th February 2019
 - b. A copy of the Notice to Leave dated 20th August 2020
 - c. Copy rent statement showing arrears of rent due at 9th April 2021 were £6,500
 - d. A copy of an e-mail confirming service of the Notice to Leave on the Respondent dated 20th August 2020.
 - e. S11 notice addressed to South Lanarkshire Council with an e-mail to South Lanarkshire Council dated 19th April 2021

- f. Letter from the owner consenting to the landlord letting the Property and raising this action and confirming the landlord is Mrs Harbhajan Kaur but named in the lease as Mrs Harbhajan Singh.
 - g. Letters to the tenant from the letting agent offering information regarding support for tenants and regarding the rent arrears.
3. The Applicant lodged an updated rent statement on 28th June 2021 showing that on 9th June 2021 the arrears of rent had increased to £7,600.
 4. A Case Management Discussion (CMD) was held by teleconference in view of the current Covid 19 pandemic, at 11.30am on 29th June 2021.
 5. The Applicant's agent Ms Lesley Ann Barclay of Happy Lets attended the CMD on behalf of the Applicant. The Applicant was not present.
 6. . The Respondent did not attend, nor did anyone appear on her behalf. There had been no reason intimated in advance for her non-appearance nor any request made for a postponement of the CMD. The Tribunal noted that valid intimation of the CMD had been made to the Respondent having seen a certificate of execution of service by Sheriff Officers on the Respondent dated 26th May 2021. The Tribunal delayed the start of the CMD by 10minutes to see if the Respondent was late in joining but she did not join. Accordingly the Tribunal proceeded to hold the CMD in the absence of the Respondent.

The Case Management Discussion

7. The Convener made introductions and explained the purpose of the CMD which is to explore the issues and to determine whether a full hearing is required or not. The Convener confirmed that the tribunal can make any decision at a CMD that it can make after a full hearing.
8. There were no written representations received from the Respondent for the Tribunal to consider.
9. Ms Barclay confirmed that there have been no further payments of rent since she raised the application and confirmed the Respondent is still resident in the Property. She advised that Happy Lets have sent out various letters to the Respondent since arrears started accruing last year and the Respondent has given various reasons for not being able to pay including being off sick, claiming she was waiting on benefits last year but on checking this, Ms Barclay advised it appeared no benefits were claimed. Ms Barclay advised that on speaking to the tenant at the Property in March this year the Respondent advised her that she was back on sick leave and now claiming housing benefit but when Ms Barclay advised that the housing benefit part of that should be sent to the landlord she advised the Respondent said "she needed all of it to live on". Ms Barclay then confirmed that the tenant had also indicated earlier that she would just wait to be evicted and then she would get a house from the Council. Ms Barclay advised she tried to speak again to the Respondent in May but the Respondent would not speak to her or let her in to the Property.
10. Ms Barclay confirmed that the rent arrears are currently £7,600 as per the rent statement she has recently lodged and that the landlord had offered to accept a lower monthly rent if the tenant was struggling and to get paid the arrears later. Ms Barclay referred to copies of the letters she has lodged showing the agents contact with the Respondent and offers to reach a

payment arrangement. Ms Barclay advised the tenant offered to pay £300 in October as a monthly payment until she could pay the full amount of £550 plus the arrears but advised the Respondent has only made one payment of £300 on 19th October and nothing since.

11. Ms Barclay submitted that the grounds for eviction are set out in the application and that it is reasonable for the Tribunal to grant the order given the landlady is an elderly lady who, she believes, requires the income and the arrears are now substantial with no response from the Respondent and no attempt to even pay what she can afford towards the rent and arrears.

Findings in Fact

12. The parties entered into a lease of the Property which commenced on 8th March 2019
13. The Rent due in terms of the lease is £550 per calendar month payable in advance
14. The tenant is still living in the Property
15. The Applicant produced a statement of rent showing that since 9th April rent has been continually in arrears.
16. There were over 3 months' rent outstanding at the date of service of the Notice to Leave.
17. As at the date of the Application there was £6,500 of rent outstanding.
18. Today the rent outstanding is £7,600 which is over 3 months' rent.
19. The arrears of rent are not wholly or partly due to a delay or failure in payment of a relevant benefit.
20. A notice to leave was served on the Respondent on 20th August 2020 by e-mail confirming that no proceedings would be raised before 23rd February 2021
21. These proceedings were raised on 19th April 2021 and the application included a copy of the Notice to Leave.
22. The Applicant has complied with the Rent Arrears Pre Action Requirements (coronavirus) (Scotland) Regulations 2020
23. There has been no response in writing or in person from the Respondent.
24. In all the circumstances the Tribunal found it reasonable to grant the order.

• Reasons for Decision

25. The Tribunal was satisfied that the Respondents had been served with a valid Notice to Leave under S52 (3) of the 2016 Act specifying Ground 12 of Schedule 3 of the Act as the relevant ground of eviction.
26. The Notice to Leave was also accompanied by evidence of how the ground was met namely the rent statement showing arrears due from April 2020
27. The Notice also set out the relevant notice period which expired on 23rd February 2021.
28. The Application was lodged on 19th April 2021 it was therefore lodged after the expiry of the Notice period and within 6 months from the date of the

expiry of the notice period and therefor complies with Section 55 of the Act.

29. The Rent statements lodged and the verbal submissions confirmed that the rent outstanding as at today's date amounts to more than three month's rent and that arrears have been due and owing for more than 3 months.
30. There being no response to counter this from the Respondent, the Tribunal is satisfied in terms of S 51 (1) of the Act that one of the eviction grounds named in Schedule 3 of the Act, namely Ground 12, is met.
31. The Tribunal is satisfied that the Applicant has complied with the terms of the Rent Arrears Pre Action Requirements (coronavirus) (Scotland) Regulations 2020.
32. The Tribunal accepted the verbal averments and written statement of rent arrears from the Applicant's agent who was credible in her evidence of the Respondent having failed to pay the rent from March 2020 and that the failure is not due to a delay or failure in payment of benefit.
33. Given the lack of response to this Application and to the attempts to agree and maintain a payment plan by the Respondent and given the substantial value of the arrears the Tribunal finds it reasonable to grant the order.
34. The Tribunal therefore determined that the order for eviction sought by the Applicant should be granted.

- **Decision**

The Tribunal grants the order for possession against the Respondent.

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.

J. T

Legal Member/Chair

_____ 29th June 2021 _____
Date