



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/21/1396

Re: Property at 5 Morar Place, Irvine, KA12 9PS (“the Property”)

Parties:

Easton Property Merkland Limited, 2 Newfield Drive, Dundonald, KA2 9EW (“the Applicant”)

Ms Megan McCartney, 5 Morar Place, Irvine, KA12 9PS (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

- Background

This is an application for an eviction order against the Respondent, who occupies the Property in terms of a private residential tenancy agreement with the Applicant. It called for a case management discussion (‘CMD’) at 10am on 8 September 2021, by teleconference. The Applicant was represented on the call by one of its directors, Mr Steven Easton. The Respondent did not call in and was not represented. The commencement of the CMD was delayed by 10 minutes to allow for any technical difficulty she may have been experiencing, but she did not get in touch.

Notice of the CMD was served on the Respondent by sheriff officers on 5 August 2021. The Tribunal was satisfied that the Respondent had had sufficient notice of the

CMD and had chosen not to attend. It therefore proceeded in the Respondent's absence.

A previous application for an order for payment regarding the Property and these parties (Tribunal ref: FTS/HPC/CV/20/2575) had already been determined, following a hearing, on 29 March 2021. An order for payment of rent arrears to the sum of £2,295 was made against the Respondent.

- Findings in Fact
 1. The Respondent occupies the Property in terms of a private residential tenancy agreement with the Applicant, with a start date of 4 April 2019.
 2. In terms of that agreement, rent of £510 is payable on the third day of each month.
 3. The Respondent did not pay rent in October, November or December 2020.
 4. As at 29 March 2021, the Tribunal determined that the Respondent owed £2,295 in unpaid rent.
 5. As part of that determination, it considered that an abatement of rent of only 10% should be applied to the amounts due in October, November and December 2020 (among others).
 6. The Respondent has not made any payment to the Applicant since 29 March 2021.
 7. A notice to leave was sent by the Applicant by email to the Respondent on 4 December 2020.
 8. The ground relied on in the notice to leave was: "You are in rent arrears over three consecutive months."

9. Both at the date of the notice to leave being sent and at the date of the CMD the Respondent had been in rent arrears for three or more consecutive months.
 10. The Applicant has not provided the Respondent with clear information regarding her rights in terms of the pre-action requirements set out in reg.4 of the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 ('the Regulations').
 11. In all other respects, the Applicant has complied with the Regulations.
 12. The Respondent's being in arrears of rent over the period in question is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
 13. It is reasonable for an order for eviction to be granted.
- Reasons for Decision
14. The Respondent has been in arrears of rent for more than three consecutive months. The Tribunal considered that it was reasonable for her to be evicted on account of that fact. The Respondent has not engaged with the Applicant or communicated with it since the Tribunal made its determination in the previous application regarding payment of rent. She has made no offer to address the arrears, which have continued to increase. She has not made any representation to the Tribunal in relation to this application.
 15. The Tribunal took into consideration the extent to which the Applicant had failed to comply with the requirements of the Regulations. It considered that this failure was of minimal effect. Set against the Respondent's failure to make any effort to address the arrears and the fact that the arrears now amounted to almost one year's rent, the Tribunal did not consider that this rendered eviction unreasonable. For the same reasons, it did not consider it would be just to adjourn to require the Applicant to comply with the remaining

aspect of the requirement. To do so would be mere box-ticking in the circumstances.

16. On that basis, the Tribunal considered the ground relied on to be made out and that an eviction order should therefore be made.

- Decision

Eviction order 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.

Legal Member: Nairn Young

Date: 08/09/2021

Nairn Young