



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016

Reference number: FTS/HPC/EV/21/1527

Parties:

Ivor Hyslop and Fiona Hyslop, residing together at 4 Summerpark, Dumfries, DG1 2AB (“the Applicants”)

Anna Wabik and Michel Petryka residing together at 80 a Queensberry Street, Dumfries, DG1 1BG (“the Respondents”)

Tribunal Members:

**Paul Doyle (Legal Member)
Linda Reid (Ordinary Member)**

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) dismisses the application.

Background

The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to leave, served on 19 April 2021, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicants are the heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 10.00am on 22 September 2021. The Applicant was represented by Ms H Fleming of G M Thomson & Co, letting agents. The start of the telephone conference was delayed to enable the respondents to participate but there was no appearance by or on behalf of either Respondent.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property on 28 June 2019.
2. The period of the Lease was from 1 July 2019. The agreed rent in terms of the Tenancy Agreement was £575 per month.
3. Since 1 May 2021, the Respondents have failed to make prompt and regular payments of the rental due. At the date of application, there were arrears of rental totalling £3,375.00, which is more than three months' rent. Even though the respondent made some payments of rental since the application was raised, at today's date there are arrears of rental totalling £4,080.00.
4. The applicants served a notice to leave on the respondents on 19 April 2021. That notice to leave correctly states that no application for repossession will be made before 20 October 2021.
5. The applicants made their application to the tribunal on 23 June 2021.
6. The respondents have served a notice to leave on the applicants, so that the tenancy will end on 30 September 2021.

Reasons for Decision

7. Because the respondents bring the tenancy to an end on 30 September 2021, the applicants seek dismissal of the application but reserve the option to re-raise an application in October 2021 if the respondents do not surrender possession of the property by 30 September 2021

Decision

The Tribunal determined to dismiss the application on the applicants' unopposed motion.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Paul Doyle

22 September 2021

Legal Member