



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/21/1549

Re: Property at Flat 1, 86-88 Irish Street, Dumfries, DG1 2PB (“the Property”)

Parties:

Mr Mohammed Miah and Mr Mohammed Patel, 18 Pelham Road, Ilford, Essex, IG1 1RF (“the applicants”)

Mr Gary Weems, Flat 1, 86-88 Irish Street, Dumfries, DG1 2PB (“the respondent”)

Tribunal Members:

David Preston (Legal Member) and Angus Lamont (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. By application dated 26 June 2021 the applicant applied for an order for eviction and possession of the property was made to the tribunal on the basis of Grounds 11 and 12 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.
2. The papers before the tribunal comprised: Tenancy Agreement dated 1 October 2019; rent statement covering the period April 2020 to June 2021 showing arrears of rent to that date of £6400; Notice to Leave dated 22 December 2020; Post Office Certificate of Posting dated 22 December 2020; Notice under section 11 of the Homelessness etc (Scotland) Act 2003; Sheriff Officer’s Certificate of Service dated 6 August 2021.
3. By Decision dated 28 July 2021, a Convener of HPC having delegated power for the purpose, referred the application under rule 9 of the Rules to the tribunal. A letter of Intimation dated 4 August 2021, with Notice of the telephone Case

Management Discussion to be held 8 September 2021, together with the case papers was served on the tenant by Sheriff Officers on 6 August 2021. The tribunal was provided with a copy of the Sheriff Officer's Certificate of Citation of that date.

Case Management Discussion

4. Mr Alasdair Bryce, Solicitor attended on behalf of the applicants. The respondent neither appeared nor was represented.
5. The tribunal was satisfied that the Notice of the CMD had been served on the respondent together with a full set of papers relating to the application and that due notice had been given to the respondent to which he had failed to respond and had accordingly voluntarily waived his right to be present or be represented.

Discussion

6. Mr Bryce advised that the keys to the property had been returned to the letting agents, but he moved the tribunal to grant the Order for eviction as the property had not been fully recovered and secured by his clients.
7. The tribunal noted that the title to the property stands in the name of MJG Construction Services Ltd although the tenancy agreement runs in the name of Mr Miah and Mr Patel who are the sole directors of the company. However, the landlord registration stands in the name of MJG Construction Services.
8. The tribunal noted that a number of letters and emails had been sent to the respondent between March and June 2021 providing advice and guidance in relation to financial problems arising from the pandemic.

Reasons for Decision:

9. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, it was able to determine the application at the CMD.
10. The tribunal accepted the information in the file and as provided by Mr Bryce and was satisfied in all the circumstances that the granting of an order for eviction was reasonable and determined to issue the order for eviction.

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.