



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/21/2133

Re: Property at Second Floor Left, 6B Thistle Street, Peterhead, AB42 1TD (“the Property”)

Parties:

John Robertson Mortification Trust, C/O 35 Queen Street, Peterhead, AB42 1TP (“the Applicant”)

Mr Przemyslaw Oleszek, Second Floor Left, 6B Thistle Street, Peterhead, AB42 1TD (“the Respondent”)

Tribunal Members:

Andrew Upton (Legal Member) and Linda Reid (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Private Residential Tenancy between the parties terminated on 28 October 2021 and that an eviction order should be granted.

STATEMENT OF REASONS

1. This Application called for its Case Management Discussion by teleconference call on 28 October 2021. The Applicant was represented by Miss Wilson. The Respondent was not present or represented.
2. In this Application, the Applicant seeks an eviction order on the basis that:- (i) the Respondent is in rent arrears in a sum greater than the amount which would be payable as one month’s rent under the tenancy agreement and has been in arrears for a continuous period in excess of three consecutive months; and (ii) the Respondent has breached his tenancy agreement. Specifically, the Applicant asserts that the Respondent was in rent arrears of

£2,095.31 when the Notice to Leave was served on 7 July 2020, £4,789.31 when this Application was initially sent to the Tribunal on 27 April 2021, and £5,986.60 as of 1 September 2021. The Applicant asserts that the Respondent has failed to keep the Property in a clean and tidy condition, in particular by failing to put the refuse bins out for collection, allowing refuse to gather and attracting vermin to the Property. The Applicant also asserts that the Respondent has refused to allow regular inspections of the Property as required by the Tenancy Agreement. These matters were all specified in the Notice to Leave dated 7 July 2020.

3. The Tribunal is empowered by Rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber Procedure Rules 2017 to do anything at a Case Management Discussion that it may do at a Hearing, including make a decision. When making any decision, the Tribunal is required by Rule 2 of the said Rules to have regard to the overriding objective to deal with proceedings justly, including by avoiding delay.
4. The Respondent has been served with a copy of the Application and supporting papers. The Respondent has been afforded an opportunity to attend the CMD and dispute the Applicant's allegations as set out in the Application. The Respondent has chosen not to do so. The Tribunal therefore considers that the matters raised by the Applicant in the Application are not in dispute.
5. The Tribunal is therefore satisfied that grounds 11 and 12 for eviction are satisfied. The Respondent continues to accrue rent arrears and to breach the tenancy agreement. The Respondent has provided no explanation for his failure to pay rent or meet his obligations under the tenancy agreement. There is no suggestion that his failure to pay rent has resulted from a delay or failure of housing benefit. The Applicant has produced correspondence to vouch that attempts to discuss the Respondent's indebtedness have been made, but we are told that the Respondent has failed to engage with those attempts. The Tribunal was satisfied that the Applicant had complied with the Pre-Action Requirements specified in the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.
6. In all of the circumstances, the Tribunal is satisfied that it is reasonable to grant an eviction order under grounds 11 and 12, with the Tenancy Agreement terminating on 28 October 2021.

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.

Andrew Upton

28th October 2021

Legal Member/Chair

Date