



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/21/2899

Re: Property at 56 Fowlers Court, Prestonpans, EH32 9AT (“the Property”)

Parties:

Mr Charlie Gibson, 18 Main Street, Pathhead, EH37 5QB (“the Applicant”)

Ms Clare Buchan, 56 Fowlers Court, Prestonpans, EH32 9AT (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order or Eviction be granted against the respondent

INTRODUCTION

This decision relates to two applications between the same parties which relate to the same property.

The first is an application under Rule 66 and Section 33 of the Housing (Scotland) Act 1988. The applicant seeks recovery of possession of the property previously let on a short assured tenancy.

The second application is under Rule 111 and Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The applicant seeks to recover arrears of rent due under the lease between the parties.

Service of the papers and intimation of the Case Management Discussions (CMDs) to the respondent took place by Sheriff Officer delivery on 7 December 2021.

A CMD in both applications took place by teleconference at 2.00 pm on 14 January 2022.

The applicant was represented by Ms Jacqueline Barr of AM Lettings Limited. The respondent failed to participate in the teleconference hearing. There was no known barrier to her doing so.

FINDINGS AND REASONS

The respondent has chosen not to oppose the applications. The Tribunal found the unchallenged documentary evidence and the submissions of the applicant's representative credible and reliable and attached weight to all of this.

The property is 56 Fowlers Court, Preston EH33 9AT.

The applicant is Mr Charlie Gibson. He is the heritable proprietor of the property. He is the landlord in terms of the lease arrangement between the parties. He is a registered landlord.

The respondent is Ms Clare Buchan. She is the tenant under the lease arrangement between the parties.

The parties entered into a short assured tenancy which commenced on 13 September 2013. The initial period of let was one of 6 months until 14 March 2014. The lease agreement makes provision for continuing on the basis of tacit relocation on a monthly basis until terminated by either party.

In advance of the tenancy being created the tenant was provided with an AT5 which is evidenced.

Under and in terms of the lease between the parties, the monthly rent was stipulated at £525 per calendar month. The respondent has fallen into arrears of rent. As at the date of the application for a payment order being made to the Tribunal, the outstanding rent amounted to £6,200. This is evidenced in terms of the detailed rent statement which has been produced on behalf of the applicant.

The applicant is entitled to recover the arrears of rent due under the lease. The Tribunal made a Payment Order in the sum of £6,200.

The notice periods required to bring tenancies to an end were extended as a consequence of the provisions of the Coronavirus (Scotland) Act 2020. A period of 6 months' notice was required to be given despite the written lease only requiring 2 months' notice to be given.

A Notice to Quit and relevant Section 33 Notice, both of which were dated 6 May 2021, were served upon the respondent by Sheriff Officers on 7 May 2021. This is evidenced. Six months' notice was given and the respondent was required to vacate the property by 14 November 2021.

A relevant Section 11 Notice under the Homelessness, etc. (Scotland) Act 2003 was issued to East Lothian Council.

The eviction application does not proceed on the grounds of rent arrears, but it is evidenced that the respondent was fully advised of her rights, including the required information in terms of the pre-action requirements required by the Regulations which came into force on 30 September 2020.

The Tribunal proceeded to have regard to the issue of reasonableness of making the eviction order sought.

The applicant is around 30 years of age. She is single with no known dependents or vulnerabilities. She has chosen not to oppose the eviction process.

There are substantial rent arrears and the applicant cannot be expected to maintain the tenancy without collecting rent.

It is most likely that the respondent will be offered accommodation by her local authority upon the eviction order being made. East Lothian Council have already been in communication with the applicant's representative regarding her circumstances.

The Tribunal concluded that it is reasonable in all the circumstances of the parties to make the eviction order.

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.

R. Mill

14 January 2022

Legal Member/Chair

Date