



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Rule 17 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) In respect of an application under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and Rule 109 of the Rules

Chamber Ref: FTS/HPC/EV/21/3197

Re: Property at 171B Riverside Road, Kirkfieldbank, ML11 9JR (“the Property”)

Parties:

Mr Brian Gordon, C/O Igloo Estate Agents, Gateside Street, Hamilton, ML3 7JG (“the Applicant”) per his agents Stodarts LLP 95 Almada Street, Hamilton, ML3 0EY (“the Applicant’s Agents”)

Ms Monica Fitzpatrick, 171B Riverside Road, Kirkfieldbank, ML11 9JR (“the Respondent”)

Tribunal Members:

Karen Moore (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 eviction Order be granted.

Background

1. By application received on 22 December 2021 (“the Application”), the Applicant’s Agents on behalf of the Applicant applied to the Tribunal for an Order for eviction and possession of the Property based on Grounds 1, 10 and 11 of the Act. The Application comprised a copy of a private residential tenancy in terms of the Act, letter from an estate agent confirming instructions to sell the Property, a rent statement showing rent amounting to £3,153.54 due and owing, copy Notice to Leave in terms of 1, 10 and 11 of the Act of Schedule 3 to the Act and copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to South Lanarkshire Council, being the relevant local authority.
2. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (the “CMD”) was fixed for 18 March 2022 at 14.00 by telephone conference.

CMD

3. The CMD took place on 18 March 2022. The Applicant was not present and was represented by Ms. Hogg of the Applicant's Agents. The Respondent was not present and was not represented. The Respondent did not submit written representations.
4. The Tribunal explained that the purpose of the CMD was to identify the issues between the Parties, to determine if the Grounds for the Order are satisfied and to determine if it is reasonable to grant the Order.
5. Ms. Hogg advised the Tribunal that the rent arrears noted in the Application were incorrect as the sum included a Sky subscription which was not due by the Respondent and that a reduced sum of £2,694.86 is the correct sum. Ms. Hogg advised the Tribunal that the Applicant intended to sell the Property as he no longer wished to be a landlord. She advised the Tribunal that the Landlord's letting agents had made attempts to contact the Respondent in respect of addressing the rent arrears without success and explained that payment plans had not been followed through. Ms. Hogg advised that both she and the letting agents had issued letters in compliance with the statutory pre-action requirements. Although, the Respondent now receives housing benefit, no payments are being made to reduce the arrears. With regard to breach of the tenancy conditions, Ms. Hogg advised that the Respondent refused access to the letting agents to inspect the Property. In respect of the personal circumstances, Ms. Hogg advised that the Respondent is a single person who resides alone.
6. The issues for the Tribunal is to determine if the eviction Grounds are established and if it is reasonable to grant the Order. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "*may do anything at a case management discussionincluding making a decision*" adjourned briefly to consider if the information before it at the CMD was sufficient to make a decision without further procedure. The Tribunal took the view that it had sufficient information and so proceeded to determine the Application.

Findings in Fact

7. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There is a private residential tenancy of the Property between the Parties;
 - ii) The monthly rent is £325.00 plus payment of a Sky subscription;
 - iii) The Applicant intends to sell the Property;
 - iv) There are arrears of £2,694.86;
 - v) The Applicant has carried out the statutory processes required by the Act and
 - vi) The Respondent is a single person who resides alone.

Decision and Reasons for Decision

8. The Tribunal had regard to all the information before it and to its Findings in Fact. The Tribunal determined that the Grounds for eviction have been met.
9. The Tribunal then considered if it could be satisfied it is reasonable to issue an eviction order on account of those facts and on all of the information before it. The Tribunal had cognisance of the fact the Respondent has not entered an appearance and had not

submitted written representations. The Tribunal noted that the level of rent arrears is significant and that no attempt is being made to make payment. The Tribunal took account of the fact that the Applicant intends to sell the Property as he no longer wishes to be a landlord. The Tribunal was therefore satisfied that it is reasonable to issue an 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.



Legal Member/Chair

18 March 2022
Date