



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/22/0718

Property : 7, otherwise, 7B Dellingburn Street, Greenock PA15 4RN (“Property”)

Parties:

Gourock Property Company Limited, 18 Nicholson Street, Greenock PA15 1JU (“Applicant”)

Patten & Prentice, 2 Ardgowan Square, Greenock PA16 8PP (“Applicant's Representative”)

Aidan John Kane, 7, otherwise, 7B Dellingburn Street, Greenock PA15 4RN (“Respondent”)

Tribunal Members:

**Joan Devine (Legal Member)
Leslie Forrest (Ordinary Member)**

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined that an order for possession of the Property should be made.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Tenancy Agreement dated 3 and 5 August 2020; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 (“Act”) dated 27 August 2021 (“Notice to Leave”) which included a schedule of rent arrears; certificate of service from sheriff Officers evidencing service of the Notice to Leave on the Respondent on 27 August 2021; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 11 March 2022 and sheriff officer's execution of service certifying service of the Application on 3 May 2022.

Case Management Discussion

A case management discussion took place before the Tribunal on 9 June 2022 by teleconference. Kenneth Caldwell of the Applicant's Representative was in attendance. There was no appearance by the Respondent. The Tribunal noted the letter from the Applicant's Representative to the Respondent dated 9 March 2022 regarding the rent arrears and asked Mr Caldwell about compliance with the pre-action requirements. He said that the letting agent, McTavish & Company, had made repeated attempts to engage with the Respondent without success. Mr Caldwell said that the Applicant knew very little about the Respondent. He was in his late twenties and had no dependents. They did not know if he was in employment or in receipt of benefits. Mr Caldwell said that the Respondent was approved as a tenant by the office manager of McTavish & Company. The Respondent was a friend of the office manager. He said that very little information was obtained. Mr Caldwell noted that less than one months rent had been paid by the Respondent.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement which commenced on 5 August 2020 ("Tenancy Agreement").
2. The Notice to Leave was served by sheriff Officer on 27 August 2021.
3. The Notice to Leave stated that an application for an eviction order would not be submitted to the Tribunal before 28 February 2022.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 11 March 2022.
5. Notice of the date of the case management discussion had been given to the Respondent on 3 May 2022.
6. The Respondent had failed to pay the rent for the period 28 September 2020 to 28 July 2021.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act.

In terms of section 51 of the Act, the First-tier Tribunal may issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 12 which states :

"(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months."

The Tribunal considered the statement of rent arrears and determined that the ground for eviction had been established. In the absence of any submission by the Respondent that it would not be reasonable to grant an order for eviction, and in light of the submission made by the Applicant's Representative, the Tribunal determined that it was reasonable to issue an eviction order.

Decision

The Tribunal grants an order for possession of the Property.

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.

**Joan Devine
Legal Member**

Date : 9 June 2022