



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/CV/22/0863

Re: Property at 42 Mugiemoss Road, Bucksburn, Aberdeen, AB21 9PF (“the Property”)

Parties:

LAR Housing Trust, F3 Buchan House, Enterprise Way, Fife, Dunfermline, KY11 8PL (“the Applicant”)

Ms Chloe Beattie, 42 Mugiemoss Road, Bucksburn, Aberdeen, AB21 9PF (“the Respondent”)

Tribunal Members:

Susan Christie (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 be granted against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under Ground 12 under schedule 3.

Background

1. The application for an eviction order was accepted by the tribunal on 12 April 2022. The Applicant seeks an eviction Order under Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (‘the Act’).
2. The tribunal paperwork was served on the Respondent personally by Sheriff Officer’s service on 20 May 2022.
3. No written representations were submitted by the Respondent.

The Case Management Discussion- 29 June 2022

4. A Case Management Discussion (CMD) took place on 29 June 2022 at 10am by conference call. The Applicant was represented by Ms Donnelly.
5. The Respondent did not participate.

6. The paperwork having been served on the Respondent by Sheriff Officer service, the tribunal was satisfied that proper intimation of the application and the date assigned had been made on the Respondent and proceeded in her absence.
7. The paperwork submitted along with the Application was examined and discussed.
8. The Applicant is the registered owner of the Property and landlord.
9. A Private Residential Tenancy (PRT) was entered into between the Applicant and the Respondent on 30 May 2019, with the same start date.
10. The rent is £613.98 per calendar month payable in advance on 1st of the month.
11. A Notice to Leave dated 13 September 2021 was served on the Respondent by Sheriff Officer service on 13 September 2021, by means of a letterbox.
12. A Notice under Section 11 of the Homelessness etc. (Scotland) Act 2003 was sent to the local authority on 24 March 2022.
13. The rent account statements produced were considered. The rent arrears as at the date of serving of the Notice to Leave was £4274.86. The rent arrears as at today are £5040.68.
14. The last payments made into the rent account totalled £595 on 10 June by way of benefit payment.
15. The Applicant's Representative sought an eviction order today. She advised the tribunal that in addition to the Pre-Action Requirements letters produced along with the application, further efforts had been made to contact the Respondent to aid in paying the full rent and towards the rent arrears but there had been no engagement at all. Monthly e mails had been sent since last year with rent reminders and there had been weekly visits to the Property with calling cards left, without success. Neighbours had been spoken to and it is understood that the Respondent is often away from the Property and staying elsewhere. There had been house calls when there had been no-one at home. The Respondent is believed to be unemployed with a young child. On 9 June 2022 the Respondent had e mailed the Applicant saying she was not at the Property as she was staying with her mother and could not give access for a gas safety check. The Applicant has concerns regarding the condition of the Property and environmental health had been contacted regarding vermin attracted to bags of rubbish that had been left at the door of the Property. It was reasonable to grant the order as they had tried to have the Respondent engage with them to try to resolve the matter but there has been no engagement. The rent arrears were significant. Whilst recent payments had been made to the rent account totalling £595, it did not address the arrears, explain the lengthy periods of non-payment, or address the deficit between any payments that had been made by way of benefits and the full rent due. It was understood that affordability checks with the Respondent had been done at the outset of the tenancy by the Applicant
16. An adjournment took place to allow discussion between the tribunal members.

Findings in Fact

- I. A Private Residential Tenancy (PRT) was entered into between the Applicant and the Respondent on 30 May 2019, with the same start date.
- II. The rent is £613.98 per calendar month payable in advance on 1st of the month, in terms of the PRT.
- III. A Notice to Leave dated 13 September 2021 was served on the Respondent by Sheriff Officer service on 13 September 2021, by means of a letterbox.
- IV. A Notice under Section 11 of the Homelessness etc. (Scotland) Act 2003 was sent to the local authority on 24 March 2022.
- V. The Pre Action Requirements have been complied with.
- VI. The total arrears figure due today is £5040.68.
- VII. The last payment to rent totalled £595, made on 10 June 2022.
- VIII. No further payments have been received from the Respondent to address the shortfall of monthly rent due.
- IX. The tenant being in arrears of rent is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
- X. The Tribunal is satisfied that it is reasonable that an eviction Order should be granted.

Reasons for Decision

17. The paperwork having been served on the Respondent by Sheriff Officer service, the tribunal was satisfied that proper intimation of the application and the date assigned had been made on the Respondent and proceeded in her absence. There was no participation by the Respondent, and she had not submitted to the tribunal any response to the application or any written representations. The tribunal had regard to all that was said, and the paperwork produced and carefully considered it. A Private Residential Tenancy (PRT) was entered into between the Parties. The Respondent had undertaken to pay the stated rent in advance on 1st of the month. A Notice under Section 11 of the Homelessness etc. (Scotland) Act 2003 had been sent to the local authority. The Tribunal had regard to the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020. It was satisfied they had been complied with. The Respondent had failed to engage. The Tribunal had regard to the amendments made to the Act in relation to the Coronavirus (Scotland) Act 2020, particularly the discretion to be applied. There have been different amounts of rent arrears over a long period of time, sometimes clearing then accruing again. Arrears accrued from 1 August 2019 until around 10 March 2020. Arrears accrued from around 1 February 2021. There were no payments towards rent between April and November 2021. Payments of varying amounts were made after that believed to have been from benefits. The rent arrears figure remains substantial. The rent is due to be paid in full in advance on the 1st of each month. The payments that have been made do not

achieve that. In recent months the total payments made from benefits appear to equate to £595 which is short of the rent and are paid after the rent is due. It appeared to the tribunal that the agreed rent may not in fact be affordable to the Respondent. It considered whether the tenant's being in arrears of rent is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit. There was no information presented to the tribunal to confirm that was the position. Benefit payments of varying amounts have been made to the account as detailed in the rent statement. The Tribunal is satisfied based on the information available, that an Order should be made today, and it was reasonable to do so. The decision is unanimous.

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

29 June 2022
Date