



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/22/0913

Re: Property at Flat 11, 7 Arneil Drive, Edinburgh, EH5 2GN (“the Property”)

Parties:

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

Mr Stephen Slyth, Miss Michaela Reynolds, Flat 11, 7 Arneil Drive, Edinburgh, EH5 2GN (“the Respondent”)

Tribunal Members:

Yvonne McKenna (Legal Member) and Ann Moore (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 against the Respondent

1. This application is under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The Applicant seeks an eviction order.
2. The Applicant lodged with the application the following documentation; -
 - Private Residential Tenancy Agreement with a start date of 20 March 2018.
 - Notice to Leave dated 8 September 2021
 - Confirmation of sending by e-mail on 8 September 2021 of Notice to Leave to the Respondent
 - Rent Statement
 - Section 11 Notice
 - Email to Local Authority intimating section 11 Notice dated 30 March 2022
 - Pre-Action Requirements Letter

3. Intimation of the application was effected on the Respondent by Sheriff Officers on 19 May 2022 together with details of the Case Management Discussion.
4. The Respondent did not lodge any submissions in advance of the Case Management Discussion.

The Case Management Discussion (CMD)

5. The CMD took place by teleconference on 29 June 2022 at 2pm.
6. The Applicant's Representative attended namely Ms Kirstie Donnelly of TC Young Solicitors.
7. The Respondent did not attend and was not represented.
8. This action was conjoined with an application for payment action in respect of rent arrears which is being dealt with by the Tribunal under reference FTS/HPC/CV/22/0915.
9. The tribunal asked Ms Donnelly if the Applicant had any contact with the Respondent. Ms Donnelly said that the last contact was in March 2022. Efforts have been made by the Applicant to contact the Respondent since then with monthly reminders being sent out. The Respondent had been sign-posted by the Applicant to take advantage of the Tenants Hardship Fund but this has not been processed.
10. Ms Donnelly said that there have been issues regarding accessing the Property and that separate proceedings have been raised before the Tribunal by the Applicant seeking access.
11. There has been a complete lack of engagement by the Respondent.
12. As far as the Applicant is aware the Respondent is still living in the Property.
13. Ms Donnelly submitted that the tribunal should grant the eviction order.
14. The Respondent Mr Slyth is 40 years of age and the Respondent Miss Reynolds is 46 years of age. They are both believed to be in employment. They have a son aged 20 and two daughters aged 15 and 12 who are believed to be residing at the Property as well.
15. Ms Donnelly said that the Property was purchased by the Applicant from the previous owner with the Respondent as a sitting tenant. The papers indicated that at the time the Property changed ownership that the Respondent owed the previous owners £17,062.60.
16. Rent has accrued since the date the Applicant purchased the Property. The rent due to the Applicant has been apportioned to take account of the entry date of 4 May 2021.
17. Shortly after purchase the Property Manager attempted to discuss the rent payments and arrears, however there was no response. Subsequently pre-action requirement letters were sent out, and there has been again no response. Since the

title was taken in the name of the Applicant which was on 4 May 2021 no rent has been received.

18. Arrears are continuing to accrue at an alarming rate.

Findings in Fact

19. The Property is Flat 11, 7 Arneil Drive, Edinburgh, EH5 2GN

20. The Applicant is Lar Housing Trust. The Applicant is the heritable proprietor.

21. The Applicant purchased the Property with an entry date of 4 May 2021.

22. The Applicant purchased the Property with the Respondent as a sitting tenant.

23. The Respondent is Mr Stephen Slyth and Miss Michaela Reynolds.

24. The Respondent is the tenant.

25. The Respondent entered into a Private Residential Tenancy (PRT) with a previous owner which commenced on 20 March 2018.

26. The rent was stipulated at £828.28 per month.

27. The Respondent has fallen into arrears of rent.

28. At the time that the Notice to Leave was served the rent arrears stood at £4197.87. As at the date of the application the rent arrears had risen to £9316.65. As at the date of the CMD the arrears remain well over 3 months.

29. The current eviction proceedings are based upon arrears of rent.

30. The relevant ground relied on by the Applicant is Ground 12, contained within Part 1, Schedule 3 to the 2016 Act, namely that the Respondent is in arrears of rent over 3 consecutive months.

31. The Notice to Leave is dated 8 September 2021.

32. The date specified in the Notice to Leave as being the earliest date upon which proceedings before the Tribunal can be raised is 11 March 2022 .

33. The Applicant served the Notice to Leave by e-mail on 8 September 2021 as provided for in the PRT.

34. Three consecutive months of rent were due at the time the Notice to Leave was served and at the date of the Hearing.

35. Ground 12 is established.

36. It is reasonable to grant the Eviction Order.

Reasons for Decision

37. In terms of Rule 17 the tribunal may do anything at a CMD which it may do at a hearing including making a decision.

38. The tribunal note that Ground 12 as originally drafted was a mandatory ground for eviction. Since the coming into force of the Coronavirus (Scotland) Act 2020, all eviction grounds are discretionary. Additionally the Notice periods have been extended by the 2020 Act. The relevant notice period under Ground 12 was

previously one of 28 days and was one of 6 months at the time the Notice to Leave was served.

39. The Notice to Leave which is relied upon is dated 8 September 2021. With reference to Section 62 of the Act, the day specified as being the earliest day upon which proceedings before the Tribunal can be raised requires to be a total of the notice period of 6 months plus an additional 3 days. That date referred to within the Notice to Leave was specified as 11 March 2022. That is an additional 3 days. The Applicant has produced the confirmation of the e-mail forwarded to the Respondent containing the Notice to Leave as provided for in the PRT.
40. The tribunal was satisfied that the Notice to Leave was validly prepared and served and can be relied upon.
41. The tribunal was satisfied that more than 3 consecutive months of rent was unpaid at the time that the Notice to Leave was served and at the date of the CMD. This establishes Ground 12.
42. Despite the order being unopposed the tribunal proceeded to consider the issue of reasonableness.
43. The Respondent has not paid the Applicant any rent at all since the Applicant purchased the Property with the Respondent as a sitting tenant. The Respondent owed the previous owner a large sum.
44. The Applicant has been in constant contact with the Respondent offering assistance from various organisations that can help with rent arrears and financial difficulties. The Respondent has not taken advantage of the tenant grant fund (which can cover rent arrears for the period 23 March 2021 to 9 August 2021)
45. The Applicant has served a valid Notice under Section 11 of the Homelessness etc. (Scotland) Act 2003. The Respondent can enquire with the local authority once eviction is granted about alternative accommodation which will be more than likely made available.
46. The Respondent is believed to be in gainful employment.
47. The tribunal took account of all of the above and weighed this up together with the fact that the Respondent has two children aged 15 and 12 and an older son aged 20 years residing in the Property.
48. In all the circumstances the tribunal considered that it was reasonable to make the eviction order sought.

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.

Yvonne McKenna

29 June 2022

Legal Member/Chair

Date