



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/22/0918

Re: Property at 24B Baldovan Terrace, Dundee, DD4 6LT (“the Property”)

Parties:

Discovery Estates No 1 LTD, 165 Brook Street, Broughty Ferry, Dundee, DD5 1DJ (“the Applicant”)

Miss Liza Gibb, 24B Baldovan Terrace, Dundee, DD4 6LT (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 30th March 2022. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to ground 12 of the Private Housing (Tenancies) Act 2016.
2. The application included:-
 - a. Private Residential Tenancy Agreement with commencement of tenancy being 23rd April 2021;
 - b. Notice to Leave signed 14th September 2021 stating an application would not be submitted to the Tribunal before 17th March 2022;
 - c. Section 11 notice noting proceedings would not be raised before 30th March 2022;

- d. Rent statement from 10th April 2021 to 17th March 2022. This detailed the rent of £495 per month and arrears of £3114.75;
 - e. Royal Mail tracking serving Notice to Leave upon the Respondent dated 15th September 2021; and
 - f. Pre Action Requirements letter dated 28th March 2022
3. On 18th May 2022, all parties were written to with the date for the Case Management Discussion (“CMD”) of 29th June 2022 at 10am by teleconferencing. The letter also requested all written representations be submitted by 8th June 2022. In response to an email from the Respondent’s solicitor at Dundee Law Centre and extension to the submissions was given until 27th June 2022.
 4. On 15th June 2022, the Applicant’s solicitor emailed the Housing and Property Chamber requested the amount sought be increased to £4599.75 for the conjoined payment order case. This was notified to the Respondent by the Applicant’s solicitor.
 5. On 20th May 2022, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 20th May 2022.
 6. The case was conjoined with case FTS/HPC/CV/22/0919

The Case Management Discussion

7. A CMD was held on 29th June 2022 at 10am by teleconferencing. The Applicant was represented by Ms Alexandra Wooley, trainee solicitor, Bannatyne, Kirkwood, France & Co. The Applicant was not present. The Respondent was represented by Ms Joyce Horsman, principal solicitor, Dundee Law Centre.
8. Ms Wooley informed the Tribunal that an order under ground 12 was still being sought. At the time of the Notice to Leave the arrears were £1285 but have now increased to the amended amount of £4599.75. It was noted that the next rent payment was due and this would now increase the arrears by £495. Ms Wooley considers that the conditions for ground 12 have been met.
9. Ms Horsman stated that the Respondent was not in dispute that the conditions for ground 12 had been met. She admitted the arrears. She had received the full amount of the Housing Element of Universal Credit. She had tried to get direct payments set up but due to a technical problem was not able to do so. Around the same time she was struggling to pay her electricity bills. She has an electricity meter. She was paying £150 per week into her meter plus buying Calor Gas at £50 per week. The heating was electric storage heating and it did not heat the 2 bedroomed flat. Ms Horsman noted that the Respondent has been going between her ex partners house and the Property as she and her daughter have not been well for several months. Her ex partner has been assisting her with child care of their young daughter. However, all her

belongings are still in the Property and she does not consider that she has left the Property. Ms Horsman noted that given that the conditions to ground 12 had been met that the Respondent was not opposing the application and did not have grounds to submit in terms of reasonableness.

10. The Tribunal noted both parties positions. The Tribunal was satisfied that ground 12 had been met and that it was reasonable to grant an order for eviction.

Findings and reason for decision

11. A Private Rented Tenancy Agreement commenced 23rd April 2021.
12. The Respondent persistently failed to pay her rent charge of £495 per month. The rent payments are due to be paid on 23rd day of each month.
13. Arrears accrued to more than three months rent payment at the date of application and was more than one months rent payments at the date of the CMD.

Decision

14. The Tribunal found that ground 12 has been established and the granted an order in favour of the Applicant.

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.

G. Miller

29th June 2022

Legal Member/Chair

Date