



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/22/1381

Property : 79 Gowan Brae, Caldercruix, Airdrie ML6 7RB (“Property”)

Parties:

Jacqueline Catherine Baktiroglu and Ibrahim Baktiroglu (“Applicant”)

TCH Law, 29 Brandon Street, Hamilton ML3 6DA (“Applicant's Representative”)

Lisa Buchanan and Gavin McKay, 79 Gowan Brae, Caldercruix, Airdrie ML6 7RB (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Mary Lyden (Ordinary Member)

Decision

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 8 February 2021; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 (“Act”) dated 31 March 2022 (“Notice to Leave”); a rent statement showing arrears of £680.40; email to the Respondents dated 31 March 2022 attaching the Notice to Leave; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 11 May 2022 and sheriff officer's execution of service certifying service of the Application on 9 September 2022.

Case Management Discussion

A case management discussion took place before the Tribunal on 24 October 2022 by teleconference. Mrs Shabeilla Saddiq of the Applicant's Representative was in attendance. There was no appearance by the Respondent.

Mrs Saddiq told the Tribunal that she understood that neither Respondent was in employment. She said that an email from Ms Buchannan was received by the letting agent, Property Bureau, dated 4 November 2021 which indicated that the relationship between the Respondents had broken down. They had been in receipt of joint benefits which stopped. She said that the Applicant tried to agree a payment plan without success. She said that there had been no communication from the Respondent since December 2021. She said that the Applicant had applied for direct payment of benefits and had received small payments. She said that she understood that Ms Buchannan had a child. She said that the Property was the Applicant's only rental property and they relied on rental income to pay the mortgage on the Property. She said they intended to let the Property again if they obtained possession. Mrs Saddiq told the Tribunal that Ms Buchannan had emailed the letting agent on 4 August 2022 saying that she no longer lived in the Property and she wished to be removed from the tenancy agreement leaving only Mr McKay as tenant.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement dated 8 February 2021 ("Tenancy Agreement").
2. The Notice to Leave was served by email on 31 March 2022.
3. The Notice to Leave stated that an application for an eviction order would not be submitted to the Tribunal before 1 May 2022.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 11 May 2022.
5. Notice of the date of the case management discussion had been given to the Respondent on 9 September 2022.
6. The Respondent had failed to pay the rent in full for the period 8 November 2021 to 8 March 2022.
7. At the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months

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 statements 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 : 24 October 2022