



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016.

Chamber Ref: FTS/HPC/EV/22/1525

Re: Property at 6 Skye Road, Dunfermline, Fife, KY11 4BJ (“the Property”)

Parties:

G H Management Ltd, Town Hall Chambers, High Street East, Wallsend, Tyne and wear, NE28 7AT (“the Applicant”)

Mr Ross Hempseed, 6 Skye Road, Dunfermline, Fife, KY11 4BJ (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Mike Scott (Ordinary Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (hereinafter referred to as “the 2016 Act”) for an Eviction Order. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made.

Decision (in absence)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondent under section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016.

Attendance and Representation

The Applicants were represented by Mrs Alison Winship

The Respondent did not attend the Tribunal and no written representations had been received. Service of the Application had been affected appropriately by Sheriff Officer.

Preliminary Matters

There were no preliminary matters other than the non attendance of the Respondent.

Case Management Discussion

The Applicant's representative set out that the Applicant's are a small family business. She said that the last contact with the Respondent was in March 2022 when access to the property was arranged for a gas safety check. The Applicant's representative sought an eviction order based on Schedule 3, Part 3 Ground 12 of the 2016 Act, namely that the Respondent was in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rents under the tenancy on that day and has been in arrears of any amount for a continuous period of up to 3 or more consecutive months.

The Applicant's representative told the Tribunal that the rent arrears due by the Respondent as at the date of the Hearing were £1547.59. She said that the tenancy had been arranged previously to also include the Respondents father. When the Respondent's father went to prison for on or around 3 years and the Respondent thereafter did not meet his rent liability. The normal rental value of the property was £600 pcm. The Respondent in terms of the tenancy which commenced on 7th May 2021 agreed to a rent of £300 per month. The Applicant's representative sought to resolve the matter informally and thereafter formally without success. The Applicant's representative said she then applied to obtain the rent due directly from universal credit. This was successful and she has obtained rent of £300 per month since 11th March 2022 and a payment monthly of £3248 towards the arrears. The rent statement lodged reflects same.

The Applicant's representative said that the Respondent had no vulnerabilities known and resided in the property alone.

Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent had received notification of the proceedings by Sheriff Officer and had not challenged same by written representations or attendance.**
- 2. The Applicant sought an Order for Eviction on the grounds of rent arrears.**
- 3. The Tribunal was satisfied that the Applicant's were the heritable proprietor of the Property as a copy title was lodged with the Application.**
- 4. There was a PRT in place between parties dated 7th May 2021. A Notice to Leave was sent to the Respondent on 4th May 2022.**
- 5. The Tribunal was satisfied on balance that the Respondent was in terms of Schedule 3, Part 3 Ground 12 of the 2016 Act at the beginning of the day the Tribunal first considered the application for an Eviction Order on**

its merits in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rents under the tenancy on that day and has been in arrears of any amount for a continuous period of up to 3 or more consecutive months.

6. As at the date of the hearing rent arrears for the property due by the Respondent amounted to £1547.59.
7. Further the Tribunal was satisfied on a balance of probabilities that the said arrears are not wholly or partly due to delay or failure of payment of the relevant benefit.
8. The Tribunal found that the requirements of Ground 12 of Schedule 3 to the Act had been met.
9. Further the Tribunal was satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period.
10. The Tribunal noted the Local Authority under the 2016 had been notified.
11. On the information given to the Tribunal by the Applicant's Representative which was credible. The Respondent had no dependents or vulnerabilities and the Tribunal found an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020.
12. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.

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.

Karen Kirk

Legal Member/Chair

29 September 2022
Date