



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/22/2474

Re: Property at 18 Greenan Road, Kilmarnock, KA3 7DX (“the Property”)

Parties:

Jams Property Services Limited, 17 Mure Avenue, Kilmarnock, KA3 1UH (“the Applicant”)

Ms Evelyn Speirs, 18 Greenan Road, Kilmarnock, KA3 7DX (“the Respondent”)

Tribunal Members:

Gillian Buchanan (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondent)

At the Case Management Discussion (“CMD”), which took place by telephone conference on 17 April 2023, the Applicant was represented by Mr Alexander Stewart. The Respondent was neither present nor represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

The CMD was in respect of this matter and the related case bearing reference FTS/HPC/CV/22/2426.

Prior to the CMD the Tribunal had received an email from Mr Stewart for the Applicant dated 11 April 2023 with attachments.

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:-

Background

A previous CMD had taken place on 24 January 2023. At that time the rent arrears outstanding and due by the Respondent had reduced to £30.40. The Applicant sought an eviction order. In all the circumstances and given the exceptional nature of the case, the Tribunal adjourned both applications to a further CMD to allow the arrears position to be monitored.

The Tribunal encouraged Mr Stewart to continue his efforts to engage with the Respondent, and to consider making further attempts to inspect the Property to give a further opportunity for the Respondent to engage.

The CMD

At the CMD Mr Stewart for the Applicant made the following representations:-

- i. Whilst the Respondent had made top-up payments towards the monthly rent due on each of 2 and 25 February 2023 each in the sum of £31 she had not made the March top-up payment as a result of which the rent arrears now stood at £61.12.
- ii. There had been no engagement from the Respondent in response to various letters sent to her regarding the arrears.
- iii. An inspection of the Property had been undertaken on Saturday 25 February. Mr Stewart's colleagues attended that inspection. Mr Stewart was not sure if there was any discussion about the rent arrears due.
- iv. Mr Stewart sought an eviction order. The Applicant is concerned that the rent arrears will simply continue to rise once again.

Reasons for Decision

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual position narrated by the Applicant within the papers and by Mr Stewart orally at the CMD was not challenged and was accepted by the Tribunal.

The Respondent had co-operated with the property inspection. It is unfortunate the opportunity was not taken at that inspection to engage with the Respondent with regard to the required to-up payments as the Tribunal had previously suggested. She made two payments in February 2023, one of those payment being in respect of the January rent..

The rent arrears are minimal being only £61.12. On that basis it is simply not reasonable to grant an eviction order. Whilst the Respondent has missed the March top-up payment an eviction order is not justified in the circumstances.

Decision

The application is refused.

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.

Gillian Buchanan

Legal Member/Chair

17 April 2023
Date

