



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/23/0088

Re: Property at 220 Wallace Street, Flat 3/21, Glasgow, G5 8AH (“the Property”)

Parties:

8 Investments Scotland Ltd, 47 Ayton Road, Glasgow, G41 5HW (“the Applicant”)

Mr Hasan Iqbal, 220 Wallace Street, Flat 3/21, Glasgow, G5 8AH (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondent from the property.
2. Case management discussions (“CMD”) took place on 25 April 2023 and 23 June 2023. The Tribunal issued Notes and Notices of Direction following those CMDs.
3. On 15 September 2023 the Tribunal received an updated rent statement from the Applicant, in compliance with the Notice of Direction issued on 23 June 2023.

The Hearing – 28 September 2023

4. The Hearing took place by conference call. The Applicant was represented by Mrs McLelland of Castle Residential, and the Respondent represented himself. This case called alongside a related case which proceeds under chamber reference FTS/HPC/CV/23/0091.
5. The Tribunal enquired of parties whether they intended to call any witnesses to give evidence. Both parties explained that they did not intend to call witnesses. Both parties made submissions, setting out their respective positions.
6. The Applicant's position was that the ground for eviction has been established and that it was reasonable for the Tribunal to grant an order for eviction. The Applicant's representative referred to the updated rent statement lodged which shows that the Respondent has not adhered to his own payment proposal. The Applicant's representative noted that the Respondent has not produced any evidence of his ability to pay rent arrears and to meet the ongoing rent payments.
7. The Respondent accepted that rent arrears have increased to £5,730. He had lost his job since the last CMD but gained new employment on 15 September 2023. He has saved £1,500 and can pay that sum today. In addition, the Respondent proposed making payments of £1,000 on 1 October 2023, £2,500 on 1 November and £2,500 on 1 December. The Respondent will receive some money from his wife and from his father in order to pay the proposed sums. The Respondent was confident that he could pay the arrears in full within the next 3 months.
8. The Tribunal adjourned the Hearing briefly to consider the submissions made by both parties. When the Hearing resumed, the Tribunal advised parties of the decision.

Findings in Fact

9. The parties entered into a private residential tenancy which commenced 17 December 2019.
10. The Applicant's representative served a Notice to Leave on the Respondent by recorded delivery post on 24 November 2022.
11. The Respondent has been in rent arrears for over three consecutive months.

Reason for Decision

12. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the Hearing.

13. The Tribunal noted that on 25 April 2023, the Respondent made a proposal to pay £1,500 per month towards rent and arrears. On the basis of that offer, the Tribunal continued the CMD for payments to be made. At the CMD on 23 June 2023, the Tribunal noted that the proposal made was not adhered to, albeit payments were made to reduce the level of rent arrears. On 23 June 2023, the Tribunal issued a Notice of Direction, requiring the Respondent to lodge a list of witnesses and any documents upon which he intended to rely. The Respondent did not lodge any documentation. There was therefore no documentary evidence before the Tribunal to support the Respondent's contention that the rent arrears would be repaid within 3 months. The Respondent had already had 2 opportunities to repay the arrears, but the rent arrears had increased since the last CMD. The Respondent has made only 3 payments to the rent account this year, on 30 January, 25 April and 2 June. Although the Respondent had apparently saved £1,500, he did not pay that to the rent account. The Respondent has been continually in arrears of rent since April 2022. The Tribunal formed the conclusion that the tenancy is not sustainable by the Respondent, given the very significant arrears and the failed payment plans.
14. The Tribunal was satisfied that the ground for eviction was established and that it was reasonable in all the circumstances to grant an order for eviction.

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.

Nicola Irvine

Legal Member/Chair

28 September 2023

Date