



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/23/0128

Re: Property at 18 Emma Jay Road, Bellshill, Lanarkshire, ML4 1HX (“the Property”)

Parties:

Ms Hanan Kattan, Ms Shamim Sarif, 151 Copse Hill, London, SW20 0SU (“the Applicant”)

Mr Robbie McDonald, 18 Emma Jay Road, Bellshill, Lanarkshire, ML4 1HX (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondent.

Introduction.

This Hearing concerned an Application under application for an Eviction order under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 in respect to a Private Rented Tenancy. The hearing took place by teleconference.

1. Attendance and Representation.

Finlay Dunsmore, Let It Glasgow, 123 Stockwell Street, Glasgow, G1 4LT attended for the Applicants.

The Respondent was not present.

The Respondent was served by Sheriff Officer on 11th April 2023.

2. Preliminary Matters.

The Respondent was not present. The Applicant's representative said that on 26th April 2023 the letting agent had confirmed the Respondent was still resident in the property. The last contact between parties was on 6th February 2023 by email.

The Applicant's representative lodged a rent statement on 2nd May 2023 and the rent arrears in terms of same were £4275.

There were no other preliminary matters raised.

3. Case Management Discussion.

The Applicant's representative set out that the Applicants were seeking an Eviction order on the basis of Ground 12, schedule 3 of 2016 Act. The Applicant's representative set out that the Respondent last made a payment to rent in November 2022. The Respondent is in arrears of rent of more than 3 consecutive months and the arrears as at the Hearing are £4275 as per the rent statement lodged dated 2nd May 2023. He submitted that the Respondent had been sent numerous letter and emails regarding the arrears which were lodged and he had had a telephone discussion with the Respondent about money advice. The Respondent had said that he had consulted with the citizen's advice bureau.

The Tribunal was told the Respondent was in and out of employment, was in his mid- twenties and that no one else resided in the property.

4. Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made in the absence of the Respondent at the Hearing and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. The Respondent had been served personally by Sheriff Officer and had not provided any written representations or appeared at the Hearing.**
- 2. The Applicant sought an Order for Eviction on the grounds of rent arrears.**
- 3. The Tribunal was satisfied that the Applicants were the heritable proprietors of the Property as a copy title was lodged with the Application.**
- 4. There was a PRT in place between parties dated 1st October 2020.**
- 5. A Notice to Leave was sent to the Respondent on 16th November 2022. The Applicant has sent a form of pre action requirement correspondence to the Respondent and a copy of same was lodged. The Applicant's representative had a signposting conversation with the Respondent.**

6. 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 the Respondent was in arrears of rent by an amount equal to or greater than the amount which would be payable as rent 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.
7. As at the date of the hearing the rent arrears for the property due by the Respondent amounted to £4275. Monthly contractual rent is £325.
8. 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.
9. The Tribunal found that the requirements of Ground 12 of Schedule 3 to the Act had been met.
10. Further the Tribunal was satisfied that the rent arrears were of a substantial nature. No payment to rent had been received since November 2022.
11. The Tribunal was also 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.
12. The Tribunal noted the Local Authority under the 2016 had been notified.
13. On the evidence available to the Tribunal the Respondent had no dependents residing with him. The Tribunal found an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020.
14. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.
15. The Tribunal noted the application was subject to the provisions of the The Cost of Living (Tenant Protection) (Scotland) Act 2022.

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.

K Kirk

Legal Member

Date: 15/05/2023