



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 (Act)

Chamber Ref: FTS/HPC/EV/23/0296

Re: Property at 76 Duncan Crescent, Peterhead, AB42 1QX (“the Property”)

Parties

**John Morgan, Alison Morgan (Applicant)
Miss Aryana Ivana Tortolano (Respondent)**

Peterhead Property Letting Agency (Applicant’s Representative)

Tribunal Members:

Alan Strain (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted.

Background

This was an application under Rule 109 and section 51(1) of the Act in respect of the Applicants’ intention to sell the Property and for eviction and recovery of possession on Grounds 12 and 12A of Schedule 3 to the Act.

The Tribunal had regard to the following documents:

1. Application received 30 January 2023;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 4 June 2021;
3. Notice to Leave dated served by Royal Mail Track and Trace on 15 December 2022 along with pre-action correspondence;
4. Section 11 Notice to Local Authority;
5. Email dated 26 January 2023 to Local Authority serving Section 11 Notice;
6. Email of 10 May 2023 enclosing 4 separate redacted statements regarding issues with the Respondent;

7. Sheriff Officer Certificate of Service of Tribunal CMD Notification on Respondent dated 17 July 2023;
8. Written Representations from the Respondent received 31 July 2023 enclosing updated Rent Statement as at 4 August 2023 and further information.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 4 August 2023. The Applicants participated and were represented by their Letting Agent. The Respondent did not participate and was not represented.

The Tribunal delayed the start of the CMD to see if the Respondent would participate but she did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that she should attend and the Tribunal could determine the matter in absence if she did not.

The Applicants' Representative confirmed that the amount of arrears had increased to £4,350.74 as at 4 August 2023.

The Tribunal explained that it would still have to be satisfied that it was reasonable to grant the order sought.

The Applicants' Representative then addressed the Tribunal on the issue of reasonableness. She drew attention to the updated amount of rental arrears and the statement detailing the anti-social behaviour of the Respondent. The rent arrears were increasing. The Applicants relied upon the rent as a source of income. The Applicants were paying a mortgage and insurance on the property and have the cost of keeping the safety certificates for the property to fund also. This was causing financial hardship.

The Applicants do have another 2-3 rental properties to the knowledge of their Representative.

The Respondent lived in the Property on her own, was working and was not paying rent.

The Tribunal then considered the documentary and oral evidence it had received from the Applicants and in so far as material made the following findings in fact:

1. The Parties let the subjects under a PRTA commencing 4 June 2021;
2. The monthly rent was £370;
3. Notice to Leave had been served on the Respondent on 15 December 2022;
4. As at the date of service of the Notice to Leave the Respondent was in arrears of rent in an amount in excess of 6 months' rent and had been in arrears for a continuous period of three or more consecutive months;

5. As at the date of the Hearing the Respondent was in arrears of rent in the sum of £4,350.74;
6. The rental arrears were not due to any delay or failure in the payment of a relevant benefit;
7. Section 11 notification had been served on the local authority;
8. The Respondent lives in the Property on her own and has no dependents in the Property;
9. The Respondent has engaged in anti-social behaviour as detailed in the written statements submitted by the Applicants' Representative on 10 May 2023;
10. The Respondent is in employment and is not paying the monthly rent;
11. The Applicants rely upon the rent as a source of income to cover the mortgage and other costs associate with the Property.

The Tribunal was satisfied that Ground12A had been established and it was reasonable to grant the application for eviction and recovery of possession given the significant rent arrears which continued to increase.

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.

15 August 2023

Legal Member/Chair

Date