



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 (“the Act”)

Chamber Ref: FTS/HPC/EV/23/1186

Re: Property at Flat B, 9 Laird Street, Greenock, PA15 1LB (“the Property”)

Parties:

Keogh & Savage (Greenock) Ltd, 8 Cranshaws Drive, Falkirk, FK2 9UY (“the Applicant”)

Mrs Pauline Boviard Tennent, Miss Amy Shanks, Flat B, 9 Laird Street, Greenock, PA15 1LB (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Miss A Moore (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted.

Background

1. This is a Rule 109 application made in the period between 13th April and 8th June 2023, where the Applicant is seeking an eviction order under ground 12A of the Act. The Applicant lodged a copy of the private residential tenancy agreement between the parties, which commenced on 7th November 2019 with a monthly rent of £500, a rent statement, pre-action requirement letters, copy Notices to Leave with evidence of service, and copy section 11 notice with evidence of service.
2. Notification of the application and the forthcoming Case Management Discussion upon the Respondents was carried out by Sheriff Officers on 3rd August 2023.

The Case Management Discussion

3. A Case Management Discussion (“CMD”) took place by telephone conference on 5th September 2023. Ms Fiona Keogh was in attendance on behalf of the Applicant. The Respondents were not in attendance.
4. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondents.
5. Ms Keogh said the arrears are currently £6031.48. The arrears were £3531.48 at the time of serving the Notices to Leave on 11th March 2023. The Respondents have failed to make payment of the full rent since the start of the tenancy. There are also four adult sons of one of the Respondents living in the Property. The children of one of the sons also live there, but that may only be at weekends. The Applicant is concerned about the condition of the Property, as the Respondents have a dog, which is not authorised in terms of the tenancy agreement. Ms Keogh has been concerned about the state of the Property when visiting, and she has had a report from a contractor regarding hygiene concerns.
6. Ms Keogh said the Respondent Mrs Tennant has always been in employment, as far as she is aware, although a small amount of housing support through Universal Credit was paid to her in the past. Ms Shanks, who had a medical issue which required surgery in recent years, was in receipt of Universal Credit, and the Applicant received direct payments for a time, but these did not cover the full rent and ceased being paid directly to the Applicant in or around February 2023. Ms Keogh said she had limited information about the employment of the other adults living in the Property, although she was aware that one of them was employed in a hotel. Ms Keogh has attempted to communicate with the Respondents by WhatsApp messages, and she can see that Mrs Tennant has read the messages, but there has been no response.
7. Ms Keogh said the Applicant is an understanding and reasonable landlord of several properties, and has never encountered problems with other tenants. The Applicant intends to sell the Property.

Findings in Fact and Law

8.
 - (i) Parties entered into a private residential tenancy agreement in respect of the Property on 7th November 2019 with a monthly rent of £500.
 - (ii) The Applicant has served Notices to Leave upon the Respondents.
 - (iii) The Respondents have accrued rent arrears.

- (iv) The Respondents had substantial rent arrears in the sum of £3531.48 which exceeded an amount that is the equivalent of 6 months' rent at the time of serving the Notices to Leave.
- (v) The Respondents being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.
- (vi) The Applicant has complied with the pre-action protocol.
- (vii) It is reasonable to grant an eviction order.

Reasons for Decision

9. Ground 12A of Schedule 3 of the Act provides that it is an eviction ground that the tenant has substantial rent arrears. The Tribunal may find that this applies if the tenant has accrued rent arrears and the cumulative amount of the arrears equate to, or exceeds, an amount that is the equivalent of 6 months' rent under the tenancy when notice to leave is given. The Tribunal must be satisfied that it is reasonable to issue an eviction order on account of that fact. The Respondents had substantial rent arrears which exceeded an amount that is the equivalent of 6 months' rent at the time of serving the Notices to Leave. The Respondents being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit. The Tribunal is satisfied that Ground 12A has been established.
10. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties. There was limited information in relation to the Respondents' circumstances. They have been tenants since 2019 and they have been in arrears throughout the tenancy. The rent arrears are now considerable, and no effort has been made by the Respondents to communicate with the Applicant or enter into any payment plan to address the arrears. Efforts to make contact by the Applicant have been ignored. There are concerns about the condition of the Property and concerns that the condition will deteriorate if the tenancy continues. The Tribunal had nothing before it to indicate that the rent arrears were due to a failure or delay in the payment of a relevant benefit, and nothing to indicate that the Respondents intended to make payment of their rent or address the arrears. Despite notification of the hearing, the Respondents did not attend to put forward any defence to the application.
11. In all the circumstances, the Tribunal considered it reasonable to grant the order sought.

Decision

12. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 9th October 2023

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.

Helen Forbes

Legal Member/Chair

5th September 2023
Date