



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.

Chamber Ref: FTS/HPC/EV/23/1214

Re: Property at 16/5 Saltire Street, Edinburgh, EH5 1PT (“the Property”)

Parties:

Places For People Scotland, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)

Mr Jason Williamson, 16/5 Saltire Street, Edinburgh, EH5 1PT (“the Respondent”)

Tribunal Members:

Karen Kirk (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”) granted an Eviction Order against the Respondent.

Introduction

This Case Management Discussion concerned an Application for an Eviction Order in relation to a Private Residential Tenancy under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016. The hearing took place by teleconference.

1. Attendance and Representation

The Applicants were not present but were represented by Kenneth Caldwell, Patten Prentice LLP, 2 Ardgowan Square, Greenock, PA16 8PP.

The Respondent was not present and had been served by Sheriff Officer on 1st August 2023.

2. Preliminary Matters

The Applicant's representative said there had been no contact from the Respondent since December 2022. A Payment Order application called at the First-tier Tribunal for Scotland (Housing and Property Chamber) in July 2023 and the Respondent did not enter into appearance. An order was granted for the sum of £9634.93 and there has been no communication from him.

The Applicant's representative had lodged an up to date statement showing the rent arrears for the property to be £10,375,63.

There were no other preliminary matters raised.

3. Case Management Discussion.

The Applicant's representative sought an Order for Eviction based on Ground 12, rent arrears and Ground 12A substantial rent arrears under Schedule 3, of the 2016 Act to make the Application. He relied on Ground 12A. Rent per calendar month is £690. The PRT commenced on 4th May 2022. The Applicant's representative set out that following the initial depot and payment to rent the Respondent had made no payments to rent other than 2 standing order payments of £6.90 each since May 2022 to date.

The Applicant's representative set out that the Respondent his client's believe to be 37 years of age, is single, has no other dependants and is a technician employed by Enterprise. The salary on commencement of the PRT was £1700 per month with possible additional income. The Applicant's received contact in December 2022 that the Respondent was in hospital and he reported he had a brain tumour. No further communication was heard by anyone.

4. Findings in Fact

1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent had received notification of the proceedings and had not challenged same by written representations or attendance. He was served by Sheriff Officer on 1st August 2023
2. The Tribunal was satisfied that the Applicants were the heritable proprietor of the Property.
3. The Tribunal was satisfied that the tenancy was a Private Residential Tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016 and dated 4th May 2022.
4. The monthly rent due in terms of the said Tenancy is £690.
5. The Applicant was relying on Ground 12A, substantial rent arrears, under Schedule 3 (as amended by the Cost of Living (Tenant Protection) (Scotland) Act 2022), of the 2016 Act. He further relied on the rent statement lodged with the rent arrears due by the Respondent to the

Applicants of £10,375,63. This comprised of well in excess of 6 months rent arrears.

6. A valid Notice to Leave had been served on the Respondent dated 15th February 2023.
7. The Tribunal was satisfied that the Respondent was in arrears of rent for over six months to the amount as at the hearing of £10,375,63.
8. Notice to the Local Authority had been given on 12th April 2023.
9. A full Rent Statement for the property had now been lodged.
10. The Tribunal was told the Respondent was single, in his 30's and lived alone.
11. The Tribunal was satisfied it was reasonable to grant the Order in terms of the Cost of Living (Tenant Protection) (Scotland) Act 2022.
12. Accordingly in terms of Section 51 of the 2016 Act the Tribunal granted an Order against the Respondent for Eviction.

Reasons for the Decision

The Tribunal heard evidence from the Applicant's representative and this allowed the Tribunal to determine the Application in absence of the Respondent. The Tribunal noted the Respondent had had the opportunity to appear and make representations but had not appeared or lodged written representations. On the basis of the rent statements lodged, the submissions heard from the Applicant's representative at the CMD and the evidence in the Application the Tribunal determined it was appropriate and reasonable 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.

Karen Kirk

30 August 2023

Legal Member/Chair

Date

