



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/23/1900

Re: Property at 25C Kerrsview Terrace, Dundee, DD4 9BJ (“the Property”)

Parties:

Mr Michael Grossi, Mrs Helen Grossi, 16 Meadowbank Gardens, Wellbank, Angus, DD5 3PW (“the Applicant”)

Mr John Brandon, 25C Kerrsview Terrace, Dundee, DD4 9BJ (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) Elizabeth Williams (Ordinary Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”)

- 1. granted an Eviction Order against the Respondent under section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016, and**
- 2. The Tribunal ordered a delay in execution of the order by 6 weeks in terms of Rule 16A(d) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Amendment Regulations 2018**

Introduction

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

1. Attendance and Representation

The Applicants were not present but represented by Katie Butchart Pax Property Ltd 82 Ferry Road Monifieth, DD5 4PA

The Respondent was present.

2. Preliminary Matters

There were no preliminary issues raised.

3. Case Management Discussion

For the Applicant

The Applicant's representative set out that the Applicant's sought an Order for Eviction. She explained that the current arrears for the tenancy was £6731. She submitted that this was 13 months in arrears as contractual monthly rent was £525. The Applicant's representative explained she had applied directly to Universal Credit for housing costs. This had been successful and payments had been applied direct since June 2023. Payments had totalled £1082.85 from Universal Credit to date. Payments were in June of £113, July of £302.98 and in August of £500. The Applicants had a total of 5 properties, were small landlords and were themselves employed.

For the Respondent

The Respondent explained that the rent arrears started back during covid and at the time he and his partner had made an agreement with the previous letting agent to pay towards the arrears with a payment plan. This was in place until November 2022 when his partner split up with him and left the property. He was left with the debt on his own and has their 2 children for half the week. He receives no financial support for his kids who are aged 4 years and 2 years. The Respondent also suffers from mental health issues and had been off work for a few months. He is unable to meet full rent as well as meeting utilities. The Respondent has worked with welfare rights and had some applications in for discretionary housing benefit. He cannot make any payments to rent arrears. The Respondent has an application in to the council for housing but requires certainty regarding the eviction. The Respondent did not oppose the application as he is unable to afford same due to the change in circumstances.

4. Findings in Fact

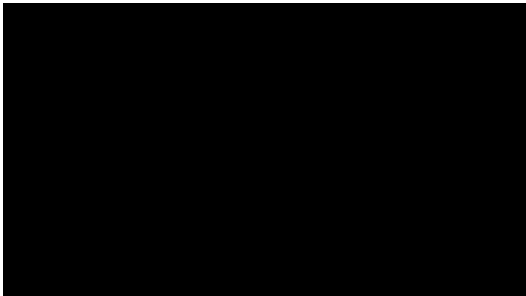
1. The Tribunal was satisfied that a decision could be made at the CMD. . It was in the interests of the parties having regard to the Overriding objective to proceed to determine the application. None of the material facts were in dispute. The Respondent was not opposed to the Application.
2. The Applicants sought an Order for Eviction on the basis of Ground 12A - substantial 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 27th April 2018. A Notice to Leave was sent to the Respondent on 12th December 2022.
5. The Respondent was in rent arrears of £6763.86 as at 27th May 2023 in terms of the rent statement lodged with the Application. The Respondent accepted same.
6. The Applicants have provided evidence of pre-action protocol work with the Respondent.
7. The Tribunal was satisfied on balance that in terms of Schedule 3, Part 2 Ground 12A of the 2016 Act that the Respondent has substantial rent arrears and the Tribunal considers it is reasonable to issue an eviction order.
8. The Tribunal was satisfied on a balance that it was reasonable that an Order for Eviction be granted. The Respondent is unable to afford the contractual monthly rent despite Universal Credit payments due to a change in material circumstances. The Respondent has suffered a relationship breakdown, mental health issues and is responsible half of the week for his 2 young children. He wishes to seek alternative affordable local authority housing and did not oppose the Application.
9. The Tribunal found that the full requirements of Ground 12A of Schedule 3 to the Act had been met. There were no outstanding benefit issues.
10. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.

5. Reasons for Decision.

The Tribunal heard credible and reliable evidence from the Applicants representative and the Respondent. There were productions which narrated the rent arrears and these were accepted by the Respondent. The written evidence supported the application. The Respondent felt following his partner leaving him that he had been unable to meet the contractual monthly amount despite welfare rights help and universal credit. He has a number of responsibilities and sought local authority accommodation. Ground 12A was found to be established and the Tribunal in all the circumstances considered an order was reasonable in their discretion. The Tribunal however considered given the circumstances of the Respondent it was appropriate to ordering a delay in execution of the order by 6 weeks in terms of Rule 16A(d) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Amendment Regulations 2018

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.



Legal Member/Chair

16th August 2023

Date