



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/21/0667

Re: Property at 86D Corsewall Street, Coatbridge, ML5 1RG (“the Property”)

Parties:

Mr William McNeilly, Abbey Lodge, 25 Wood Street, Coatbridge, ML5 1LY (“the Applicant”)

Miss Dawn Buchanan, 86D Corsewall Street, Coatbridge, ML5 1RG (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Mike Scott (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

1. An application was received by the Housing and Property Chamber dated 17th March 2021. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to ground 3 of Schedule 3 of the Private Housing (Tenancies) Act 2016.
2. The application included:-
 - a. Copy Scottish Government Model Private Residential Tenancy Agreement with commencement of tenancy being 2nd November 2018;
 - b. Notice to Leave signed 4th September 2020 stating an application would not be submitted to the Tribunal before 7th March 2021;
 - c. Section 11 notice noting proceedings would not be raised before 17th March 2021;

- d. Rent statement from 5th June 2019 to 2nd March 2021. This detailed the rent of £415 per month and arrears of £3035;
 - e. Copy email dated 4th September 2020 serving Notice to Leave upon the Respondent; and
 - f. Pre action requirement letters and correspondence from the letting agent to the Respondent.
3. On 19th April 2021, all parties were written to with the date for the Case Management Discussion (“CMD”) of 19th May 2021 at 11.30am by teleconferencing. The letter also requested all written representations be submitted by 10th May 2021.
 4. On 21st April 2021, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Citation dated 21st April 2021.

The Case Management Discussion

5. The Tribunal held a Case Management Discussion (“CMD”) on 19th May 2021 at 11.30am by teleconferencing. The Applicant was not present but was represented by Ms Kirsty Stevenson from Joanna Daly Properties. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Tribunal considered the Application. The Respondent was written to on 19th April 2021 asking for any representations to be sent to the Housing and Property Chamber no later than 10th May 2021. The Respondent did not make representations in advance of the hearing. The Tribunal was satisfied that if the Respondent had required an adjournment should be aware of the contact details of the Housing and Property Chamber to make such a request.
6. Ms Stevenson told the Tribunal that she had spoken to the Respondent prior to the hearing. The Respondent had said that she would not be attending as she was working. The Tribunal noted that there had been no adjournment requests. Ms Stevenson noted that the Respondent had entered into a payment agreement to pay £700 per four weeks (the equivalent of £758.33 per month). She had made one payment of £700 in February 2021 and then again on 23rd March 2021. She made no payments for April 2021 but paid £550 on 4th May 2021. She understands that the Respondent is in full time employment working as a carer in a care home. Ms Stevenson noted that she or a colleague would be willing to sit down and work with the Respondent to complete a budget to determine if £700 per four weeks is affordable or if the amount needs to be adjusted. The Arrears have reduced to £2615. She does not believe that there are any outstanding Universal Credit issues. She continues to seek the Order for eviction due to the sporadic payments and contact.

Findings and reason for decision

7. A Private Rented Tenancy Agreement commenced 2nd November 2018.

8. The Respondent persistently failed to pay her rent charge of £415 per month. The rent payments are due to be paid on 2nd day of each month.
9. Arrears accrued to more than three months rent payments at the date of the Notice to Leave and at the date of the hearing.
10. There are no outstanding Universal Credit issues.
11. The arrears sought totalled £2615 which is reduced from the application amount of £3035. However, the payment plan has not been adhered to with the Respondent paying and contacting sporadically.

Decision

12. The Tribunal found that ground 8 has been established and there were no issues of reasonableness that meant that the Order should not be granted. The Tribunal granted an order in favour of the Applicant.

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.

G.M.

19th May 2021

Legal Member/Chair

Date