



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/21/0848

Re: Property at 10 Balvonie Green, Inverness, IV2 6GE (“the Property”)

Parties:

HHA4 LLP (Formerly Highland NHT 2014 LLP), Highland House Alliance, Fairways, Castle Heather, Inverness, IV2 5GH (“the Applicant”)

Mr John Hugh Hamilton, 10 Balvonie Green, Inverness, IV2 6GE (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the order to recover possession of the property.

Background

The Applicant submitted an application seeking an order to evict the Respondent from the property at 10 Balvonie Green, Inverness, IV2 6GE. The Tribunal issued a letter to the parties dated 5 May 2021 advising them of the date, time and conference call details of today’s case management discussion. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 26 May 2021. No written representations were received from the Respondent.

The Case Management Discussion

The Applicant (Ms Stoddart) participated in the case management discussion and was represented by Mr Brown, solicitor. The case management discussion proceeded in the absence of the Respondent.

The Tribunal noted that there were no written representations made by the Respondent and the Tribunal was therefore unaware of the Respondent's position. The Applicant's representative advised that there has been no contact from the Respondent in many months. The Applicant advised that she attempted to carry out an inspection of the property and also telephoned and emailed the Respondent. There was no response from the Respondent to any of these attempts at contact. In addition, the Applicant wrote to the Respondent several times over the last year and copies of those letters have been lodged with the Tribunal. All of those letters went unanswered. The Tribunal was also advised that the Job Centre made contact with the Applicant yesterday; they advised that the Respondent applied for Universal Credit in January and they wanted to trace the Respondent. The Applicant is unaware of whether the application for Universal Credit was successful or not but has not received any payments in respect of the housing element. Finally the Applicant advised that she had information from a neighbour of the Respondent that he moved out of the property in or around March.

The Applicant's representative advised that the order for eviction was sought on the basis of ground 12 of schedule 3 of the 2016 Act. The last payment made by the Respondent in respect of rent was in March 2020. It was submitted that it was reasonable in all the circumstances for the Tribunal to grant the order for eviction.

Findings in Fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement dated 5 June 2019.
2. The initial rent payable was £513.99 per month, payable in advance.
3. The monthly rent increased to £520.67 on 1 August 2020 and to £524.67 on 1 May 2021.
4. The Applicant served Notice to Leave by email and recorded delivery on 7 August 2020.
5. The Respondent has been in arrears of rent for a period in excess of 3 months.

Reason for Decision

The Tribunal proceeded on the basis of the written documents which were before it and the submissions made at the case management discussion. The Respondent was given an opportunity to provide written representations to the Tribunal; he failed to do

so and he failed to participate in the case management discussion. The Applicant's representative invited the Tribunal to make the Order sought. The Applicant relied upon Ground 12 of Schedule 3 of the 2016 Act. The Notice to Leave had been properly served. The Tribunal was satisfied that Ground 12 had been established, and that it was reasonable in all the circumstances to grant the order sought. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

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.

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Nicola Irvine
Legal Member/Chair

Date:03/06/2021