



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/22/0828

Re: Property at 11 Campbell Close, Hamilton, ML3 6BF (“the Property”)

Parties:

Silverwells Investments Ltd, 1 St Andrews Avenue, Bothwell, G71 8DL (“the Applicant”)

Mr James Guthrie and Mr James John Hamil, 11 Campbell Close, Hamilton, ML3 6BF (“the Respondents”)

Tribunal Members:

Gillian Buchanan (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondents)

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

At the Case Management Discussion (“CMD”), which took place by telephone conference on 22 June 2022, the Applicant was represented by Ms Caitlin McKendrick of Tay Letting Limited. The Respondents were neither present nor represented and had lodged no written representations.

The CMD was in respect of this matter and the related case bearing reference FTS/HPC/CV/22/0829.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) had been satisfied relative to the Respondents having received notice of the CMD and determined to proceed in the absence of the Respondents in terms of Rule 29.

Background

The Tribunal noted the following background:-

- i. Places for People Homes Limited leased the Property to the Respondents in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 19 December 2019.
- ii. The rent payable in terms of the PRT is £500 per month payable monthly in advance.
- iii. The rent arrears due as at the date of the application were £7,950.
- iv. That on 17 September 2021, the Applicant's agent served on the Respondents by email a Notice to Leave requiring the Respondents remove from the Property by 20 March 2022 on the basis that rent arrears had accrued over three consecutive months.
- v. That on 14 December 2021 the Applicant's agent emailed the Respondents with a Repayment Calculator and signposting the Respondents to sources of financial help and support.
- vi. That the Applicant's agent has served on South Lanarkshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the CMD Ms McKendrick for the Applicant made the following representations in respect of this application and the associated application FTS/HPC/CV/22/0829:-

- i. The Applicant is in right of the landlord's interest in the PRT. The Applicant purchased a portfolio of properties owned by Places for People Homes Limited in August/September 2020. That portfolio included the Property.
- ii. The Second Respondent is the First Respondent's son.
- iii. The rent arrears balance as at today's date is £8,175.00.
- iv. An order for payment of rent arrears was previously granted by the tribunal on 13 January 2022 in a sum of £4,650.00.
- v. The deposit paid by the Respondents in terms of the PRT remains with Safe Deposits Scotland.
- vi. Ms McKendrick made an application for direct payments of Universal Credit. That application was successful and payments of £475 were received from the First Respondent's Universal Credit entitlement on each of 27 March, 27 April and 27 May 2022.
- vii. The Respondents have personally made no payments towards the rent due since 27 May 2021.
- viii. Ms McKendrick's office tried to assist the Respondents with a Hardship Loan Fund application in October last year. That application was unsuccessful.
- ix. There has been little communication from the Respondents. Ms McKendrick managed to speak with the First Respondent by telephone in April 2022. He was not willing to discuss the rent arrears but acknowledged the Notice to Leave had expired. He gave no indication as to when he would vacate the Property.
- x. The First Respondent's employment status is unclear. He has previously refused access to the Property to inspect on the basis of being at work. Separately, he has intimated that he cannot make any payments because is not in employment. It is not known whether the Second Respondent is in employment.
- xi. As far as Ms McKendrick is aware the Respondents are still living in the Property. The First Respondent has previously indicated the Second Respondent has moved out but on another occasion said he is still living there.
- xii. Access to the Property to inspect has been sought and denied.
- xiii. The Applicant seeks an eviction order.

Findings in Fact

- i. The Applicant is the heritable proprietor of the Property.
- ii. Places for People Homes Limited leased the Property to the Respondents in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 19 December 2019.
- iii. The Applicant is in right of the landlord's interest in the PRT.
- iv. The rent payable in terms of the PRT is £500 per month payable monthly in advance.
- v. The rent arrears due as at the date of the application were £7,950.
- vi. That on 17 September 2021, the Applicant's agent served on the Respondents by email a Notice to Leave requiring the Respondents remove from the Property by 20 March 2022 on the basis that rent arrears had accrued over three consecutive months.
- vii. That on 14 December 2021 the Applicant's agent emailed the Respondents with a Repayment Calculator and signposting the Respondents to sources of financial help and support. That email was sufficient to comply with the Rent Arrears Pre-Action Requirements (Coronavirus)(Scotland) Regulations 2020.
- vii. That the Applicant's agent has served on South Lanarkshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- viii. The rent arrears balance as at today's date is £8,175.00.
- ix. An order for payment of rent arrears was previously granted by the tribunal on 13 January 2022 in a sum of £4,650.00.
- x. The deposit paid by the Respondents in terms of the PRT remains with Safe Deposits Scotland.
- xi. An application for direct payments of Universal Credit was successfully made on behalf of the Applicant and payments of £475 were received from the First Respondent's Universal Credit entitlement on each of 27 March, 27 April and 27 May 2022.
- xii. The Respondents have personally made no payments towards the rent due since 27 May 2021.
- xiii. The Applicant's agent tried to assist the Respondents with a Hardship Loan Fund application in October last year. That application was unsuccessful.
- xiv. There has been little communication from the Respondents.
- xv. The Respondents are understood to be still living in the Property.
- xvi. Access to the Property to inspect has been sought and denied.

Reasons for Decision

The Respondents did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant within the application papers and orally at the CMD was not challenged and was accepted by the Tribunal.

The rent arrears are substantial and reflect the Respondents having made no effort to reach a payment arrangement with the Applicant.

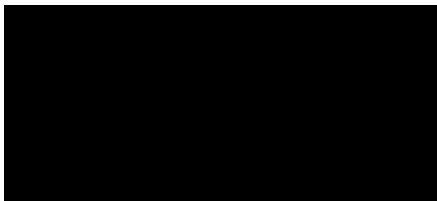
The Tribunal considered whether or not it would be reasonable to grant an eviction order and determined that it is reasonable to grant an eviction order under Ground 12 of Schedule 3 of the 2016 Act.

Decision

The Tribunal grants an order for the Respondent's eviction from the Property.

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

22 June 2022
Date