



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/22/1308

Re: Property at 6 Goldcrest Crescent, Lesmahagow, ML11 0GU (“the Property”)

Parties:

Mr Michael Jarvis, Mount of Glorat, 54 Campsie Road, Milton of Campsie, G66 8EF (“the Applicant”)

Miss Kaya Stewart, Mr Anatoli Khaimov, 6 Goldcrest Crescent, Lesmahagow, ML11 0GU (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Second Named Respondent, Mr Anatoli Khainov)

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.

Background

1. An application was received by the Housing and Property Chamber dated 5th May 2022. 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 12 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 26th June 2020;
 - b. Notice to Leave signed 4th April 2022 stating an application would not be submitted to the Tribunal before 6th May 2022;
 - c. Section 11 notice noting proceedings would not be raised before 6th May 2022;

- d. Rent statement from 25th June 2020 to 26th May 2022. This detailed the rent of £575 per month and arrears of £2850;
 - e. Copy email dated 4th April 2022 serving Notice to Leave upon both of the Respondents;
 - f. Letter regarding Pre Action Requirements from the Applicant's letting agent to the Respondents; and
 - g. Copies of various emails between parties.
3. On 11th May 2022, all parties were written to with the date for the Case Management Discussion ("CMD") of 10th June at 11.30am by teleconferencing. The letter also requested all written representations be submitted by 1st June 2022.
 4. On 12th May, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondents by letterbox service. This was evidenced by Certificate of Intimation dated 12th May 2022.
 5. The case was conjoined with case FTS/HPC/CV/22/0770

The Case Management Discussion

6. A CMD was held on 10th June at 11.30am by teleconferencing. The Applicant was represented initially by Mr Ross Leiper, finance department, Rent Locally then Ms Shirleyann McCulloch, Office/Property Manager. The First Named Respondent, Miss Kaya Stewart, was present. The Second Named Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules.
7. Mr Leiper told the Tribunal that the Order was still being sought. Mr Leiper was limited by the information that he could provide as he worked in the finance department. He told the Tribunal that he would be able to get Ms McCulloch to join the call for any information that he was not able to provide to the Tribunal. The Tribunal felt that it would be beneficial to hear from Ms McCulloch and so she joined the teleconference.
8. Ms Stewart stated that she did not dispute the arrears. She left the Property in April 2022. She informed the letting agent when she left. She is living with her grandmother. Her children are living with her. Mr Khaimov is still in the Property. She is in communication with him. As she has left the Property she is not in a position to oppose the eviction. Ms Stewart raised that the arrears had arisen when she had lost her job and there was a time lag before she got paid from her new job. In addition she had taken advice about withholding rent due to repairs that were required in the Property. She did not submit a Repairing Standards application. Ms Stewart told the Tribunal that once the repairs were done she did not hand over the outstanding money as she needed it to pay for her moving costs. She noted that she had discussions with Mr Khaimov where he had shown emails where he offered to pay the arrears. Mr Khaimov is working.

9. Ms McCulloch disputed what Ms Stewart had said. She disputed that she had received notice of Ms Stewart leaving or that the repairs were as substantial as to require the rent being withheld. She noted that the payments offered by Mr Khaimov was to commence on the basis of the Notice to Leave being withdrawn. She also noted that he has not paid any rent and the arrears are still accruing.
10. The Tribunal noted that there was a relationship breakdown between the Respondents and the Letting Agents and also between the two Respondents. However, the debt was admitted by Ms Stewart and there were more than three consecutive months rent due. Mr Khaimov had not made any representations. Ms Stewart was not opposing the Order for eviction. The Tribunal did not consider that there were any issues of reasonableness which would prevent the Order being granted. The Tribunal did not consider that a full hearing was required as the matter could be dealt with at the CMD. The Tribunal granted the Order.

Findings and reason for decision

11. A Private Rented Tenancy Agreement commenced 26th June 2020.
12. The Respondent persistently failed to pay their rent charge of £575 per month. The rent payments are due to be paid on 26th day of each month.
13. Arrears accrued to more than one month's rent payment and there were more than three months consecutive months rent payments at the date of the Notice to Leave and at the CMD.
14. There are no outstanding Universal Credit Housing Element matters waiting to be resolved.
15. The arrears sought in the conjoined case is £1125. The current arrears outstanding amounts to £2850.
16. The Tribunal was satisfied that that there were no issues of reasonableness that prevented the Order for eviction being granted.

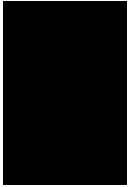
Decision

17. The Tribunal found that ground 12 has been established and 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.



10th June 2022

Legal Member/Chair

Date