



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/23/0058

Re: Property at 45 Tay Street, Monifieth, Dundee, DD5 4AX (“the Property”)

Parties:

T3eth Limited, 10 Kingfisher Place, Kingennie, Broughty Ferry, Dundee, DD5 3JZ (“the Applicant”)

Mr Sebastian Harper Ward, 45 Tay Street, Monifieth, Dundee, DD5 4AX (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondent)

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

- Background

This is an application for an eviction order against the Respondent, who occupies the Property in terms of a private residential tenancy agreement with the Applicant. It called for a case management discussion (‘CMD’) at 10am on 20 July 2023, by teleconference. The Applicant was represented on the call by Mr Allen Smith of Sutherland Management. The Respondent was not on the call or represented.

The matter previously called for a CMD on 29 March 2023, at which both parties made appearance. The matter was continued to allow an agreed payment plan to be implemented. Since that time, the Applicant had submitted a rent statement

indicating that the agreed plan had not been kept to by the Respondent. The Respondent sent an email on 10 July 2023 requesting postponement, but giving no reason why this was necessary, other than reference to him consulting a solicitor. He stated, "I will not be accepting this." The request for a postponement was not granted.

The Tribunal considered that the Respondent was aware of the CMD and had chosen not to attend; and that it was therefore fair to proceed in his absence.

- Findings in Fact

1. The Applicant lets the Property to the Respondent in terms of a private residential tenancy with a start date of 1 March 2022.
2. In terms of that tenancy agreement, rent of £975 is due on the first day of each month.
3. As at 1 December 2022, the Respondent had been arrears of rent for 3 consecutive months.
4. On 2 December 2022, the Applicant served a notice to leave on the Respondent stating that it intended to seek an eviction order on Ground 12 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016: i.e. that he had been in rent arrears over three consecutive months.
5. On 5 December 2022, the Applicant sent a letter to the Respondent complying with the requirements of pre-action protocol.
6. The Respondent has remained in arrears of rent since then, such that, at the time of the second CMD, the arrears stood at £7,975.
7. At the first CMD in the case, the Respondent indicated he was in permanent employment, and that he could offer to pay £2,000 towards the arrears by 1 May 2023, and £1,500 per month thereafter, until they were cleared.

8. The Respondent accepted at the first CMD that he had already failed to keep to two previous repayment arrangements and that this was the final time the Applicant would be willing to accept such an offer to pay.

9. The Respondent has not kept to the arrangement made at the first CMD.

- Reasons for Decision

10. The arrears are significant in this case. The Respondent has been given several opportunities to make repayment arrangements, but he has shown himself consistently to be unable to keep to these. It is reasonable for him to be evicted in the circumstances. Ground 12 has therefore been made out.

- Decision

Eviction order granted.

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.

Nairn Young

20 July 2023

Legal Member/Chair

Date