



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 (“the Act”) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/22/0173

Re: Property at 118 Craigour Drive, Little France, Edinburgh, EH17 7NT (“the Property”)

Parties:

Ms Heidi Grant, 26 Wedale View, Stow, Galashiels, TD1 2SJ (“the Applicant”) per her agents, Belvoir Edinburgh, 28-28A Dunas Street, Edinburgh, EH3 6JN (“the Applicants’ Agents”)

Ms Debbie McKay, 118 Craigour Drive, Little France, Edinburgh, EH17 7NT (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction Order be granted.

1. By application received between 19 January 2022 and 22 February 2022 (“the Application”), the Applicant’s Agents applied to the Tribunal for an Order for eviction and possession of the Property based on Ground 12 of the Act that there are rent arrears over three consecutive months. The Application comprised a copy of the private residential tenancy between the Parties, copy rent statements showing rent arrears of more than three consecutive months, copy correspondence between the Applicant’s Agents and the Respondent meeting the pre-action requirements, in terms of the Act, , copy Notice to Leave in terms of Ground 12 of Schedule 3 to the Act and copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Edinburgh City Council, being the relevant local authority.
2. The Application was accepted by the Tribunal and a Case Management Discussion (the “CMD”) was fixed for 10 June 2022 at 10.00 by telephone conference. The CMD was intimated to the Parties and, in particular, was served on the Respondent by Sheriff Officer on 10 May 2022.

CMD

3. The CMD took place on 10 June 2022 at 10.000 by telephone. The Applicant did not take part and was represented by Mrs. Lisa Chisholm and Ms. Zoe Thompson of the Applicant's Agents. The Respondent did not take part and was not represented. She did not submit any written representations.
4. The Tribunal explained that the purpose of the CMD was to identify the issues between the Parties, to determine if the Ground for the Order is satisfied and to determine if it is reasonable to grant the Order. The Tribunal confirmed that it was satisfied that correct statutory procedures had been carried out and that the Ground on which the Application was raised is established. However, the Tribunal must be satisfied that it is reasonable to issue an eviction order on account of those facts.
5. The Tribunal noted from the Application that the Respondent is in receipt of Universal Credit and has a disabled son who is of school age and asked Mrs. Chisholm to provide as much information as she could in respect of the Respondent's circumstances. Mrs. Chisholm explained that communication with the Respondent had been difficult as the Respondent did not contact the Applicant's Agents direct or by phone and would only use email. As far as was known to the Applicant's Agents, the Respondent had been in part-time employment and received Universal Credit for at the start of the tenancy in December 2020, that the Universal Credit had stopped in March 2021 and restarted in October 2021. No rent payments were made from April to September 2022. Universal Credit at the rate of £825.00 being £50.00 less than the monthly rent of £875.00 is being received and so rent arrears continue to accrue. The current amount due is £6,850.00. Mrs. Chisholm stated that she is aware that the Respondent receives disability benefit for her son but has no information in respect of the child's health, nor was she aware if the Respondent had made enquiries with the local authority in respect of seeking alternative accommodation. The Property is occupied by the Respondent and her son. With regard to the Applicant's position, Mrs. Chisholm advised that the Applicant has no other rental properties, has a mortgage on the Property and that the level of rent arrears is causing her financial and emotional strain.
6. The issue for the Tribunal is to determine if it is reasonable to grant the Order. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "*may do anything at a case management discussionincluding making a decision*" adjourned briefly to consider if the information before it at the CMD was sufficient to make a decision without further procedure. The Tribunal took the view that it had sufficient information and so proceeded to determine the Application.

Findings in Fact

7. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There is a tenancy of the Property between the Parties at a monthly rent of £875.00 which began on or around 9 December 2020;
 - ii) Rent amounting to £6,850.00 is outstanding and due and owing by the Respondent to the Applicant and this amount continues to increase;
 - iii) The Applicant has a mortgage secured on the Property and requires the rental income to meet the costs of the Property;

- iv) The Applicant has carried out the statutory processes required by the Act;
- v) The Respondent's child has health issues.

Decision and Reasons for Decision

8. The Tribunal had regard to all the information before it and to its Findings in Fact.

9. The Tribunal then considered if it could be satisfied it is reasonable to issue an eviction order on account of those facts and on all of the information before it. The Tribunal had cognisance of the fact the Application was not opposed by the Respondent and that the Respondent's son has health issues. The Tribunal had regard to the high level of the rent arrears and the financial effect this has on the Applicant. The Tribunal was satisfied that, on balance, it is reasonable to issue an eviction order. However, the Tribunal had regard to the Respondent's likely specific housing needs in respect of her son's health and took the view that it was appropriate to defer the date on which the eviction order comes into force until 10 August 2022 to allow the Respondent sufficient time to secure alternative suitable accommodation.

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.

Karen Moore

10 June 2022

Legal Member/Chair

Date