



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/20/0495

Property: Flat 0/2, 218 Allison Street, Govanhill, Glasgow G42 8RS("Property")

Parties:

Robina Rasul Hussain, 32 Beaconvillas, Sufi City, Mandi Bahauddin, Pakistan ("Applicant")

Clarity Simplicity Limited, 34 Woodlands Road, Glasgow G3 6UR ("Applicant's Representative")

Alina Munteanu, Flat 0/2, 218 Allison Street, Govanhill, Glasgow G42 8RS ("Respondent")

Dailly & Co, Govanhill Law Centre, Samaritan House, Lower Ground Floor, 79 Coplaw Street, Glasgow G42 7JG ("Respondent's Representative")

Tribunal Members:

**Joan Devine (Legal Member)
Donald Wooley (Ordinary Member)**

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined that an order for possession should be made.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were:

- a Private Residential Tenancy Agreement between G4 Properties, letting agent, and the Respondent dated 16 May 2018 in respect of the Property;

- an incomplete short assured tenancy between the Applicant and the Respondent for the Property for the period 1 November 2016 to 1 April 2017 and month to month thereafter;
- Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 10 December 2019 ("Notice to Leave");
- copy letter from the Applicant' Representative to the Respondent attaching Notice to Leave dated 10 December 2019 and Royal Mail proof of delivery on 12 December 2019 ;
- notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003;
- statement of rent arrears to 1 August 2020;
- receipt from Bank of Scotland regarding a deposit of £520 in cash in November 2018;
- Rent Relief Order and Statement of Decision in respect of case proceeding under reference FTS/HPC/RP/19/0332.

Hearing

A Hearing took place before the Tribunal on 1 December 2020 by conference call. The Applicant was not in attendance and was represented by Lauren Dalglish of the Applicant's Representative. The Respondent was not in attendance and was represented by Clare Cochrane of the Respondent's Representative.

In advance of the Hearing the Representatives for the Parties had advised the Tribunal by email dated 30 November 2020 that Parties had agreed a way forward. At the Hearing the Representatives for the Parties confirmed that was the position. Parties had agreed that the Respondent would vacate the Property no later than 31 January 2021. They asked the Tribunal to grant an order for eviction on the basis it would not be enforceable until 1 February 2021. The Tribunal noted that it could regulate its own procedure in terms of rule 16 A of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

The Tribunal noted that :

1. The Applicant and the Respondent had entered into a Private Residential Tenancy Agreement which commenced on 16 May 2018 ("PRT").
2. In terms of clause 8 of the PRT the Respondent agreed to pay rent at the rate of £500 per month payable on the 1st of each month.

3. A statement had been produced to the Tribunal which indicated that rent was outstanding under the PRT for the period 1 March 2018 to 1 August 2020.
4. The Notice to Leave was issued by recorded delivery post on 10 December 2019. It stated that an application for an eviction order would not be submitted to the Tribunal before 10 January 2020.
5. In terms of the PRT, the parties had agreed that communications could be by email but the PRT contained no email address for the Respondent.
6. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act on the basis it would not be enforced any earlier than 1 February 2021.

In terms of section 51 of the Act, the First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

In the Application the Applicant stated that she sought recovery of possession of the Property on the basis set out in Ground 12 and then narrated that in excess of 3 months' rent was in arrears. In part 2 of the Notice to Leave the Applicant had stated that the Respondent was in rent arrears over three consecutive months. In part 3 of the Notice to Leave the Applicant had narrated the arrears at the date of the Notice.

Ground 12 states:

"(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

(2) The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if –

(a) at the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, the tenant

(i) is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and

- (ii) has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, and
- (b) The Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit."

The Respondent produced a rental statement which showed that the rent arrears totalled £15,900 which was greater than one month's rent, and that the rent had been in arrears for a continuous period of more than three consecutive months.

Decision

The Tribunal grants an order for possession of 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.

**Joan Devine
Legal Member**

Date : 1 December 2020