



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 the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/20/1052

Re: Property at 81 Kelburne Oval, Paisley, Renfrewshire, PA1 3ST (“the Property”)

Parties:

Mr Stuart McKechnie and Mrs Dorothy McKechnie, 42 Alice Street, Paisley, PA2 6EB (“the Applicant”) per their agents, Messrs Bannatyne, Kirkwood France & Co., 16 Royal Exchange Square, Glasgow, G1 3AG

Mr Alan Cluckie, 81 Kelburne Oval, Paisley, Renfrewshire, PA1 3ST (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member)

Decision (in absence of the Respondent)

1. By application received on 9 April 2020 (“the Application”), the Applicant’s Agents on behalf of the Applicant made an application to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Chamber”) for a possession order in terms of Section 51 of the Act. The Application comprised an application form, copy private residential tenancy agreement showing a monthly rent of £555.00, copy notice to leave dated 24 February 2020 citing Grounds 10 and 12 of Schedule 3 to the Act and giving notice that the earliest date proceedings can be start is 26 March 2020, rent statements showing rent arrears amounting to £2,646.51 being rent arrears for three or more consecutive months and copy notice to Renfrewshire Council, being the relevant local authority, in terms of

Section 11 of the Homelessness (Scotland) Act 2003. The Applicant's Agents advised that the Application was proceeding on Ground 12, only.

2. On 4 May 2020, a legal member of the Chamber with delegated powers of the Chamber President accepted the Application and a Case Management Discussion ("CMD") was fixed for 14 August 2020 at 10.00 by telephone conference call. The Application was intimated to the Respondent. The CMD was intimated to both Parties.
3. By email dated 29 July 2020, the Applicant's Agent intimated to the Tribunal and the Respondent that the rent due and owing had increased to £4,846.51 and amended the Application to this extent.
4. The CMD took place on 14 August 2020 at 10.00. The Applicant did not take part and was represented by Ms. Kirsty Donnelly of the Applicant's Agents. The Respondent did not take part.

Summary of Discussion

5. The Tribunal advised that it had read and was familiar with all of the background papers. The Tribunal asked the Applicant's Agent to confirm the order sought and the current position regarding arrears of rent and Ground 12 of Schedule 3 to the Act. Applicant's Agent confirmed that an order for possession is sought and that rent amounting to £4,846.51 remains due and owing.

Findings of the Tribunal.

6. From the Application and the CMD, the Tribunal found the following facts to be established: -
 - i) There is a private residential tenancy agreement between the Parties;
 - ii) The monthly rent is £555.00;
 - iii) A notice to leave dated 25 February 2020 citing Ground 12 of Schedule 3 to the Act and giving notice that the earliest date proceedings can be start is 27 March 2020 was intimated to the Respondent by or on behalf of the Applicant;
 - iv) Rent arrears amounting to £1,546.51 at the date of the notice to leave were due and owing by the Respondent to the Applicant. This sum had increased to £2,646.51 at the date the Application was made and has increased further to £4,846.51;
 - v) The rent arrears are for three or more consecutive months;
 - vi) Notice to Renfrewshire Council, being the relevant local authority, in terms of Section 11 of the Homelessness (Scotland) Act 2003, has been given

Decision of the Tribunal and Reasons for the Decision.

7. The Tribunal had regard to Chapter 3 of Part 5 of the Act which sets out the steps which a landlord must take to bring an application for termination of a private residential tenancy to an end and determined that the Applicant had complied with these requirements.
8. The Tribunal then had regard to section 51 (1) of the Act which states:-
“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.”
9. Accordingly, having been satisfied that the Applicant had complied with these requirements, the Tribunal was obliged to grant an order.
10. The Tribunal then 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” and so proceeded to make an order for possession to come into effect thirty days from the date hereof, being 15 September 2020.

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.



14/08/20

Legal Member/Chair

Date