



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/19/0409

Re: Property at 24 Millcroft Road, Cumbernauld, G67 2QQ (“the Property”)

Parties:

Mr Kumarasamy Jeyanthan, Guardian Letting, 6 Tullis Street, Glasgow, G40 1HN (“the Applicant”)

Mr James Innes, 24 Millcroft Road, Cumbernauld, G67 2QQ (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for the respondent’s eviction from the property at 24 Millcroft Road Cumbernauld G67 2QQ be made on the basis of Ground 12 of schedule 3 of the Private Housing (Tenancies)(Scotland Act 2016 since the respondent has accrued arrears of rent by an amount equal to or greater than one month’s rent and has been in arrears of rent for a continuous period of three or more consecutive months.

This was the second case management discussion ‘CMD’ regarding this application in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rules 2017, ‘the rules’ and s51 of the Private Housing (Tenancies)(Scotland) Act 2016, ‘the Act’. The first CMD on 28 May 2019 was adjourned for the applicant to lodge:

1. Proof of service of the notice to leave.
 2. A copy of the rent statement which was attached to the notice to leave.
- Both documents were lodged by the applicant on 30 May 2019 by email.

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The tribunal had before it the following copy documents:

1. Application dated 7 February 2019 and lodged with the Tribunal on that date.
2. Notice to leave dated 22 December 2018.
3. Tenancy agreement.
4. S11 notice to local authority.
5. Rent statement with arrears as at 11 April 2019.
6. Rent statement attached to notice to leave with arrears as at 11 December 2018.
7. Proof of service of notice to leave dated 22 December 2018.
8. Sheriff Officer's execution of service dated 4 June 2019.

Discussion

The respondent did not attend the CMD and was not represented. The applicant was represented by Mr Girdwoow and Mr Breed of Guardian Letting and Sales Limited. The tribunal had sight of item 8 above and was satisfied that the respondent had received appropriate notice in terms of rule 24. The tribunal proceeded with the CMD in terms of rule 29.

Mr Girdwood advised the tribunal that arrears are continuing to accrue. No payments have been made since the application was made and further arrears of £500 have accrued. When asked about the housing benefit position he stated that the respondent was working when the tenancy agreement was entered into and he had not received any notification of any application for housing benefit.

Findings in fact

1. The applicant entered into a private rented tenancy agreement with the respondent for the let of the property in August 2018.
2. The monthly rental payment was £250.
3. Rent arrears have accrued since October 2018.
4. The respondent was served with a valid notice to leave on 22 December 2018. The rent arrears on that date were £500.
5. The rent arrears as at 25 June 2019 are around £1290.
6. The sum of £1290 is in excess of one month's rent.
7. The respondent has been in rent arrears for a continuous period in excess of three consecutive months.
8. The tribunal is not satisfied that the rent arrears are wholly or partly as a result of a failure or delay in the payment of a relevant benefit.

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Reasons

The tribunal was satisfied that the respondent received notice of today's CMD. The tribunal was satisfied that it had enough information before it to make a decision and that the procedure had been fair. The tribunal considered the notice to leave and item, 7 above which was a letter dated 21 December 2018 and signed on 22 December 2018 to the effect that the notice to leave was given to the respondent by Caron Hume of Guardian Letting in the presence of Mr Przemyslaw Waclawski as witness. The tribunal was satisfied that it had been validly served on the respondent by it being handed to him personally on the 22 December 2018. The tribunal was satisfied on the basis of the information provided that there was more than one month's rent outstanding at the date of the notice to leave and at that date the rent for October, November and December 2018 was outstanding. The information given to the tribunal today was that no further payments have been made since the application was made. The tribunal is therefore satisfied that the mandatory ground 12 has been clearly met and the terms of s51 of the Act have been complied with. There was no evidence to suggest that the arrears have accrued due to a failure or delay in the payment of housing benefit.

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.

L.Ward

25 July 2019

Lesley A Ward Legal Member

Date