



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/22/1863

Property : 1/R 89 Arbroath Road, Dundee DD4 6HJ (“Property”)

Parties:

RNA Development Limited, Jubilee House, East Beach, Lytham St Annes FY8 5FT (“Applicant”)

Bannatyne Kirkwood France & Co, 16 Royal Exchange Square, Glasgow G1 3AG (“Applicant's Representative”)

Greiogair McLeod and Marco Wan, 1/R 89 Arbroath Road, Dundee DD4 6HJ (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Tenancy Agreement dated 29 November 2021; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 (“Act”) dated 3 May 2022 (“Notice to Leave”) which included a schedule of rent arrears; copy email to the Respondent dated 3 May 2022 attaching a copy of the NTL; copy letters from Your Move to the Respondent regarding rent arrears dated 11 January, 8 February, 28 February, 23 March, 31 March and 17 May 2022 (PAR Communications”); notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 15 June 2022 and sheriff officer's execution of service certifying service of the Application on 3 August 2022.

Case Management Discussion

A case management discussion took place before the Tribunal on 13 September 2022 by teleconference. Alexandra Wooley of the Applicant's Representative was in attendance. There was no appearance by the Respondent. The Tribunal noted the letters from Your Move to the Respondent regarding rent arrears and asked if the Respondent had responded to the letters. Ms Wooley explained that initially a payment of 50% of the monthly rent was made. Thereafter payment proposals were agreed but not adhered to. She said that since the end of May 2022 there had been no engagement from the Respondent.

As regards the question of reasonableness, Ms Wooley told the Tribunal that as far as the Applicant was aware, the Respondent lived in the Property alone, there were no children living with them. She said that both Mr McLeod and Mr Wan were employed. They had applied for Universal Credit but had been refused. She said the Applicant was not aware of the Respondent suffering from any disability or vulnerability.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement which commenced on 29 November 2021 ("Tenancy Agreement").
2. The Notice to Leave was served by email on 3 May 2022.
3. The Notice to Leave stated that an application for an eviction order would not be submitted to the Tribunal before 3 June 2022.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 15 June 2022.
5. Notice of the date of the case management discussion had been given to the Respondent on 3 August 2022.
6. The Respondent had failed to pay the rent for the period 29 January 2022 to 28 April 2022..

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act.

In terms of section 51 of the Act, the First-tier Tribunal may 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 they sought recovery of possession of the Property on the basis set out in Ground 12 which states :

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

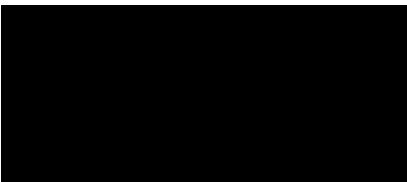
The Tribunal considered the statement of rent arrears and determined that the ground for eviction had been established. In the absence of any submission by the Respondent that it would not be reasonable to grant an order for eviction, and in light of the submission made by the Applicant's Representative, the Tribunal determined that it was reasonable to issue an eviction order.

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: 13 September 2022