



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/23/0709

Re: Property at 15 Burleigh Road, Bothwell, G71 8JQ (“the Property”)

Parties:

Ms Hazel Brooks, 2 Naismith Court, Stonehouse, Larkhall, ML9 3HE (“the Applicant”)

Mr Matthew Conner, 15 Burleigh Road, Bothwell, G71 8JQ (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 3rd March 2023. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 1 of the Private Housing (Tenancies) Act 2016.
2. The application included:-
 - a. Copy Scottish Government Model Private Residential Tenancy Agreement with commencement of tenancy being 13th February 2020;
 - b. Notice to Leave signed 30th November 2023 stating an application would not be submitted to the Tribunal before 1st March 2023;
 - c. Section 11 notice noting proceedings would not be raised before 1st March 2023;

- d. Copy email dated 30th November 2023 serving Notice to Leave upon the Respondent; and
 - e. Estate agency agreement dated 3rd March 2023; and
 - f. Email dated 14th April 2023 from the Applicant to her representative giving her authority for them to act on her behalf.
3. On 13th April 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 19th May 2023 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 4th May 2023.
 4. On 14th April 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 14th April 2023.
 5. The Tribunal due to be heard on 19th May 2023 had to be postponed for an internal reason arising within the Housing and Property Chamber Tribunal. A new date was set for 23rd August 2023 at 10am by teleconferencing. All parties were written to on 25th July 2023 to advise of the new time of the CMD.

The Case Management Discussion

6. A CMD was held on 23rd August 2023 at 10am by teleconferencing. The Applicant was not present but was represented by Ms Louise Crofton, Your Move McLaughlin. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the hearing.
7. Ms Crofton said that the Applicant no longer wishes to be a landlord. She only has this property that she rents out. The Applicant has become seriously unwell as of the end of last year which is why she decided to sell the Property. Prior to the Notice to Leave the Respondent was in arrears of approximately £1700. The Applicant and the Respondent had reached an agreement for the arrears to be repaid. Since the Notice to Leave was issued on 30th November 2022 the Respondent has stopped paying his rent charge. The last payment was on 14th November 2022. The arrears are currently £6325. The last contact from the Respondent was around the time of when the last CMD was scheduled in May 2023 when Ms Crofton had contacted the Respondent. There has been no communication from the Respondent since.
8. Due to the Applicant’s ongoing health issues she wishes to sell the Property. Ms Crofton said that the Respondent being in the Property and not paying his rent is making the Applicant have more stress when she should be focused upon her own treatment and care.
9. Ms Crofton said that the Respondent is a single man who has his son every fortnight. He is employed. He is not known to have any health conditions that would mean that it was not reasonable to evict him to allow the Applicant to sell the Property.

Findings and reason for decision

10. A Private Rented Tenancy Agreement commenced 13th February 2020.
11. The Applicant intends to sell the Property. It is the only property that she owns for rental purposes. She no longer wishes to be a landlord. She made this decision as she has ongoing significant health issues which have required hospitalisation.
12. The Respondent persistently failed to pay his rent charge of £575 per month since he was served with the Notice to Leave. The rent payments are due to be paid on 13th day of each month. There were arrears on the rent account of £1700 prior to the Notice to Leave being served. Since that point the Respondent has not paid his rent charge and the arrears have increased to £6325. There has been no contact with the Respondent since May 2023. The increase in the arrears has put the Applicant under further stress.
13. There are no issues of reasonableness to prevent an order being granted.

Decision

14. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicant.

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.

Gabrielle Miller

23rd August 2023

Legal Member/Chair

Date