



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/19/3191

Re: Property at 10E Kilcreggan View, Greenock, PA15 3JB (“the Property”)

Parties:

Mr John Gisbey, 5 Ballochyle Place, Gourock, PA19 1BG (“the Applicant”), represented by Kenneth Caldwell, solicitor, Messrs Patten and Prentice, Solicitors 2 Ardgowan Square Greenock

Miss Yvonne Gallagher, 10E Kilcreggan View, Greenock, PA15 3JB (“the Respondent”)

Tribunal Members:

Jim Bauld (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted

Background

By application received 8 October 2019, the applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Tribunal Rules”).

On 23 October 2019 the application was accepted by the tribunal and referred for determination by the tribunal.

A Case Management Discussion was set to take place on 11 December 2019 and appropriate intimation of that hearing was given to both the landlord and the tenant

The Case Management Discussion

The Case Management Discussion (CMD) took place on 11 December 2019. The applicant was not personally present but was represented by Mr Kenneth Caldwell, solicitor, from Messrs Patten and Prentice, Solicitors 2 Ardgowan Square Greenock. The Respondent did not attend

The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters

The tribunal asked various questions of the solicitor with regard to the application and the ground for eviction contained within it.

The solicitor confirmed that he wished the order sought to be granted

Findings in Fact

The Applicant and the Respondent as respectively the landlord and tenant entered into a tenancy of the property on 7 December 2018.

The tenancy was a private residential tenancy in terms of the Act

On 4 September 2019 the applicant served upon the tenant a notice to leave as required by the Act. The Notice became effective on 3 October 2019.

The notices informed the tenant that the landlord wished to seek recovery of possession using the provisions of the Act.

The notice was correctly drafted and gave appropriate periods of notice as required by law.

The notice set out a ground contained within schedule 3 of the Act, namely ground 12 that the tenant was in arrears of rent, had been in arrears for at least three consecutive months and the arrears amounted to more than one month's due rent

The tenant has been in arrears of rent since February 2019 and at the date of the lodging of the application owed £1940. Monthly rent was £485. At the date of the CMD, the arrears were £2910.

The basis for the order for possession was accordingly established

Reasons for Decision

The order for possession was sought by the landlord based on a ground specified in the Act and properly narrated in the notice served upon the tenant. The tribunal was

satisfied that the notice had been served in accordance with the terms of the Act and that the landlord was entitled to seek recovery of possession based upon that ground and the relevant terms of the tenancy agreement which had been lodged with the application

The tribunal accepted the evidence of the landlord with regard to the level of rent arrears. The tenant was not present to dispute the amount and has not responded to any correspondence from the tribunal to dispute the claim.

In all the circumstances, the tribunal was also content to exercise the power contained within rule 17(4) of the Tribunal rules to make a final decision on the application at the CMD.

Decision

The order for recovery of possession is granted

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.

Jim Bauld

Legal Member/Chair

11 December 2019

Date