



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/21/0692

Re: Property at 138 Crookston Avenue, Glasgow, G52 3PR (“the Property”)

Parties:

Mrs Sonia Tahir, 14 Long Kiln Road, Nuneaton, CV10 9FW (“the Applicant”)

Mr David Gildea, Ms Lucy McWilliams, 138 Crookston Avenue, Glasgow, G52 3PR (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member) and Eileen Shand (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

- [1] The Applicant submitted an application seeking an order to evict the Respondents from the property. The Tribunal issued a letter to the parties dated 4 June 2021 advising them of the date, time and conference call details of today’s case management discussion. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondents were invited to make written representations by 25 June 2021. No written representations were received by the Tribunal.

The Case Management Discussion

- [2] The Applicant participated in the case management discussion which took place by conference call. The case management discussion proceeded in the absence of the Respondents.
- [3] The Tribunal noted that there were no written representations made by the Respondents and the Tribunal was therefore unaware of the Respondents' position. The Applicant advised that the First Respondent indicated to her that the Respondents intended to leave the property on various dates in June and July, but that they had not yet removed from the property; the rent arrears have increased to £12,100. Reference was made to the rent statement lodged. The Applicant advised that the Respondents acknowledged the rent arrears were due and offered payment at the rate of £1,200 per month on the basis that £800 was for rent and £400 towards arrears. The Applicant made a previous application to evict the Respondents which proceeded under chamber reference FTS/HPC/EV/20/1806. On the basis of the proposal made by the Respondents, the Applicant withdrew that application. However, the Respondents only made one payment in terms of that agreement, which was in January 2021. Since then, no payments have been made in respect of rent or arrears of rent.
- [4] The Applicant sought the order for eviction on the basis of ground 12 of schedule 3 of the 2016 Act. It was submitted that it was reasonable in all the circumstances for the Tribunal to grant the order for eviction.

[5] Findings in Fact

- i. The parties entered into a Tenancy Agreement dated 11 May 2019 which commenced 1 June 2019.
- ii. The rent payable was £800 per month, payable in advance.
- iii. The Applicant served Notice to Leave by email on 20 August 2020.
- iv. The Applicant gave the Respondents an opportunity to pay rent arrears by instalments but the Respondents defaulted on the agreement to do so.
- v. The Respondents have been in arrears of rent for a period in excess of 3 months.

Reason for Decision

- [6] The Tribunal proceeded on the basis of the written documents which were before it and the submissions made at the case management discussion. The Respondents were given an opportunity to provide written representations to the Tribunal; they failed to do so and they failed to participate in the case management discussion. The Applicant invited the Tribunal to make the Order sought. The Applicant relied upon Ground 12 of Schedule 3 of the 2016 Act.

The Notice to Leave had been served. The Tribunal was satisfied that Ground 12 had been established, and that it was reasonable in all the circumstances to grant the order sought. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

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.

N Irvine

Legal Member/Chair

12 July 2021

Date