



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/21/1883

Re: Property at 162 Castlelview, Dundonald, KA2 9JE (“the Property”)

Parties:

RJSD Property Ltd, Hart Robert J and Co, 9 Kilwinning Road, Irvine, KA12 8RR (“the Applicant”)

Miss Nicole Cook, 162 Castlelview, Dundonald, KA2 9JE (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Helen Barclay (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 Respondent from the property. The Tribunal issued a letter to the parties dated 28 September 2021 advising them of the date, time and conference call details of the case management discussion assigned for 28 October 2021. 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 had sufficient information and considered the procedure to have been fair. The Respondent was invited to make written representations by 19 October 2021. No written representations were received

by the Tribunal. The case management discussion assigned for 28 October 2021 was adjourned until today.

The Case Management Discussion

- [2] The Applicant was represented by Mr Spence, and the Respondent by Mr Tierney, both of whom participated in the case management discussion by conference call.
- [3] The Applicant's representative relied upon Ground 12 in support of the application for eviction, that is to say that the Respondent was in arrears of rent for more than 3 consecutive months. He referred to the rent statement lodged which shows the arrears of rent as at 29 July 2021 amounted to £5,010.05. Although some payments have been made since the rent statement was lodged, the full rental charge has not meet met. The Respondent's representative explained that the Respondent does not dispute the level of arrears and has registered as homeless. The Respondent accepted that remaining in the property is not sustainable. The Respondent is in receipt of universal credit and the sum of £425 is paid directly to the Applicant towards the ongoing liability for rent. The Respondent accepted that she will have to leave the property and find alternative accommodation for her and her 12 year old daughter. The Respondent did not oppose the application but invited the Tribunal to exercise its discretion to postpone execution of the order for 2 months. There was no opposition from the Applicant's representative to postpone execution for a short period to allow the Respondent additional time to identify suitable accommodation.
- [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. The Tribunal noted that the Applicant has lodged copy letters evidencing compliance with the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.

- [5] **Findings in Fact**

- i. The parties entered into a private residential tenancy agreement which commenced 29 August 2019.
- ii. The rent payable was £525 per month, payable in advance.
- iii. The Applicant served Notice to Leave by sheriff officer on 5 October 2020.
- iv. The Applicant wrote to the Respondent offering an opportunity to pay rent arrears by instalments.
- v. The Respondent has 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 Respondent accepted that she had incurred rent arrears and did not oppose the application. The Applicant's representative 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. Having heard from parties' representatives, the Tribunal postponed execution of the order until at least 15 February 2022.

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.

Nicola Irvine

Legal Member/Chair

14 December 2021

Date