



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/22/0401

Re: Property at 29 Haddington Crescent, Glenrothes, Fife, KY6 1LU (“the Property”)

Parties:

Mrs Amuthini Satchithanathan, 34 Queenborough Gardens, Ilford, IG2 6XZ (“the Applicant”)

Mr Bailey McIntyre, 29 Haddington Crescent, Glenrothes, Fife, KY6 1LU (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

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 under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondent from the property.
2. By decision dated 15 June 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.
3. A case management discussion (CMD) took place on 29 August 2022. Reference is made to the Note issued following the CMD.

4. The Tribunal fixed a Hearing for 21 November 2022 to consider the reasonableness of granting an order for eviction. The Tribunal wrote to the Respondent on 21 October 2022 advising him of the date and conference call details of the Hearing. The Respondent was advised that he was required to take part in the Hearing.
5. On 10 October 2022, the Applicant's representative lodged an updated rent statement and sent a copy to the Respondent.
6. On 20 October 2022, the Applicant's representative lodged a further updated rent statement and sent a copy to the Respondent.
7. On 2 November 2022, the Applicant's representative lodged written representations along with an updated rent statement.

The Hearing

8. The Hearing took place by conference call. The Applicant was represented by Mrs Blaik. The Respondent did not join the conference call and the Hearing proceeded in his absence. The Applicant's representative explained that there has been no recent contact with the Respondent. She has issued 2 letters to the Respondent since the CMD, but there has been no response. Despite the Respondent's commitment at the CMD to pay £600 per month, he had not made those payments. The Applicant's representative has agreed a number of payment plans with the Respondent in the past, but he has not adhered to the agreements reached. The Applicant's representative has tried to identify other properties in the area which might be affordable to the Respondent but has been unable to do so. The rent statement lodged on 2 November shows that the rent arrears were £5,756.31. However, the arrears have increased and now amount to £6,256.31. The Respondent appears to receive some financial assistance from Fife College, but the payments being made do not even meet the monthly rental charge. The rent arrears are increasing and the tenancy appears to be unaffordable to the Respondent. The Applicant is a stay at home mother and relies upon the rental income of £500 per month. The Respondent's inability to pay the monthly rent and arrears has caused the Applicant financial hardship. It was submitted that it was reasonable in all of the circumstances to grant the order for eviction.

Findings in Fact

9. The parties entered into a private residential tenancy which commenced 17 April 2018.
10. Rent is due by the Respondent at the rate of £500 per month, payable in advance.

11. The Applicant's letting agent personally served the Notice to Leave on the Respondent on 9 September 2021.
12. As at the date of the Notice served, the Respondent was in arrears of rent for more than 3 consecutive months.
13. As at the date of this Hearing, the Respondent was in arrears of rent for more than 3 consecutive months.

Reason for Decision

14. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the Hearing. The Respondent failed to participate in the Hearing and did not lodge any written submissions. The Tribunal took account of the Respondent's commitment given at the CMD to pay £600 per month. Since the CMD, the arrears of rent have increased and the Respondent has failed to make payments of £600 per month. The updated rent statement lodged demonstrated that there are significant arrears of rent. There was nothing to indicate that the Respondent disputed the level of rent arrears shown on the updated rent statement. The Tribunal was satisfied that the ground for eviction was established and that it was reasonable to grant the order evicting the Respondent from 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.

N. Irvine

Legal Member/Chair

21 November 2022
Date