



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/22/0410

Re: Property at 69 Balmore Drive, Hamilton, ML3 8DE (“the Property”)

Parties:

Mr JOHNATHON LAU, 157 PORTLAND STREET, ABERDEEN, AB11 6LN (“the Applicant”)

MS JULIE MONTAGUE, 69 Balmore Drive, Hamilton, ML3 8DE (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Elizabeth Currie (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.

[1] Background

The application before the Tribunal was made in terms of Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The Applicant sought an order to evict the Respondent from the property. The Tribunal intimated the application to the Respondent by letter of 17 March 2022 and advised her of the date, time and conference call details of today’s case management discussion. The Respondent was invited to make written representations by 7 April 2022, but no written representations were received by the Tribunal.

The case management discussion

[2] The Applicant was represented by Mrs Lesley Barclay. The case management discussion proceeded in the absence of the Respondent and took place by conference call. The Tribunal was advised that the Applicant seek an order for recovery of possession, relying upon Ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016 in respect that the Respondent was in rent arrears in excess of 3 months. The rent statement lodged shows rent arrears due of £2,400. The Applicant's representative advised that the arrears have since increased to £3,750. The Applicant tried to work with the Respondent to address the issue of rent arrears, but the Respondent failed to engage. The Respondent first accrued arrears in January 2021 but repaid those arrears. However, from October 2021, payments of rent stopped and nothing further has been paid by the Respondent. The Applicant's representative has sent letters and emails to the Respondent and has organised visits to the property. There has been no response from the Respondent. The Respondent is believed to be in employment and lives alone at the property. The Applicant owns a number of other properties but has been forced to sell some properties as a result of rent being unpaid for this property and one other. It was submitted that it was reasonable in all the circumstances for the Tribunal to grant the order evicting the Respondent from the property.

[3] Findings in Fact

- i. The parties entered into a private residential tenancy which commenced 1 September 2020.
- ii. The Applicant's representative served the Notice to leave on the Respondent by email on 23 June 2021.
- iii. The Respondent has been in arrears of rent for a continuous period in excess of 3 months.
- iv. As at the date of this case management discussion, the Respondent was in arrears of rent in excess of 3 months.

[4] Reason for Decision

The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Respondent failed to participate in the case management discussion and did not lodge any written representations. The Applicant complied with the pre-action protocol, by instructing their representative to issue letters to the Respondent. The Tribunal was satisfied that ground 12 has been established and that it is reasonable for the Tribunal to grant the order for eviction.

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

6 May 2022

Date