



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/22/2334

Re: Property at 25A Vicar Street, Falkirk, FK1 1LL (“the Property”)

Parties:

H & B Collection Ltd, 4 Cairnhill View, Bearsden, Glasgow, G61 1RP (“the Applicant”)

Mr Paul Cairns, 25A Vicar Street, Falkirk, FK1 1LL (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Gordon Laurie (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 9 August 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. The Notice of Acceptance was intimated to the Applicant’s representative on 10 August 2022. The Tribunal intimated the application to the parties by letter of 1 September 2022 and advised 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 Respondent was invited to make written representations by 22 September 2022. No written representations were received by the Tribunal.

The case management discussion

4. The case management discussion took place by conference call. The Applicant was represented by Ms Matthew. The Respondent did not join the conference call and the discussion proceeded in his absence. This case called alongside a related case which proceeds under chamber reference FTS/HPC/CV/22/2336. The Applicant's representative explained that the Respondent is believed to live alone at the property and the Applicant is not aware of him having any dependents. In or around April 2022, the Applicant became aware that the Respondent applied for universal credit, but the Applicant understood that application to have been unsuccessful. The Respondent has made only 2 payments towards the rent account since July 2021. The Applicant's letting agent has issued several letters to the Respondent; those letters advised the Respondent about the level of rent arrears and provided information about organisations which may be able to provide financial assistance. The Applicant received no response to those letters. The Tribunal noted from the rent statement lodged that the payment made on 27 May 2022 contains a narrative which ends "UC" and the Tribunal enquired whether this might indicate that universal credit was being paid. The Applicant's representative was unaware of any successful universal credit claim and indicated that payments are not being made directly to the Applicant or being passed on by the Respondent. It was submitted that it was reasonable in all of the circumstances to grant the order for eviction.

Findings in Fact

5. The parties entered into a private residential tenancy which commenced 7 January 2020.
6. The Applicant's letting agent served the Notice to Leave on the Respondent by email on 21 April 2022.
7. As at the date of the Notice served, the Respondent was in arrears of rent for more than 3 consecutive months.
8. As at the date of this case management discussion, the Respondent was in arrears of rent for more than 3 consecutive months.

Reason for Decision

9. 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 discussion and did not lodge any written submissions. The Tribunal took account of the Respondent's circumstances as known to the

Applicant. It was noted that if the Respondent is in receipt of universal credit, the housing element of that claim is not being passed on to the Applicant. 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.

Nicola Irvine

Legal Member/Chair

20 October 2022

Date