



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/20/0222

Re: Property at 4/39 220 Wallace Street, Glasgow, G5 8AJ (“the Property”)

Parties:

Mr Gordon Campbell, 40 Reynolds Drive, Stepps, Glasgow, G33 6ED (“the Applicant”)

Miss Ashleigh Dickson, 4/39 220 Wallace Street, Glasgow, G5 8AJ (“the Respondent”)

Tribunal Members:

Andrew Upton (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent in favour of the Applicant, and that the Private Residential Tenancy between them ended on 18 March 2020.

Findings in Fact

1. The Applicant is the Landlord, and the Respondent the Tenant, of the Property under and in terms of a Private Residential Tenancy which commenced on 17 September 2019 (“the PRT”).
2. In terms of the PRT, the Respondent was under contractual obligation to make payment of rent at a rate of £720 per calendar month on the 17th of the month.
3. The Respondent failed to make full payment of the initial rent on 17 September 2019, and has been in arrears since then.

4. On 21 December 2019, the Applicant issued a Notice to Leave to the Respondent giving notice that he was relying upon Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 and demanding that she leave the property no later than 21 January 2020. As at that date, the Respondent had been in rent arrears for a period in excess of three calendar months and the sum outstanding was in excess of one month's rent.
5. The Respondent remains in occupation of the Property.

Findings in Fact and Law

1. Ground 12 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 applies, in that:-
 - a. The Respondent has been in rent arrears for a continuous period of three or more consecutive months both prior to service of the Notice to Leave and immediately preceding the Case Management Discussion on 18 March 2020; and
 - b. The Respondent is in arrears of an amount greater than one month's rent.
2. The Private Residential Tenancy between the Applicant and the Respondent terminated on 18 March 2020.

Statement of Reasons

1. This case called on 18 March 2020 for a Case Management Discussion. The Applicant was personally present. The Respondent was neither present nor represented.
2. In his application, the Applicant seeks an eviction order against the Respondent. The Applicant asserts the following in the application:-
 - a. The Applicant is the Landlord, and the Respondent the Tenant, of the Property under and in terms of a Private Residential Tenancy which commenced on 17 September 2019 ("the PRT"). A copy of the PRT agreement was produced with the application.
 - b. In terms of the PRT, the Respondent was under contractual obligation to make payment of rent at a rate of £720 per calendar month on the 17th of the month.
 - c. The Respondent failed to make full payment of the initial rent on 17 September 2019, and has been in arrears since then. A rent schedule was produced by the Applicant with the application.
 - d. On 21 December 2019, the Applicant issued a Notice to Leave to the Respondent giving notice that he was relying upon Ground 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 and demanding that she leave the property no later than 21 January

2020. As at that date, the Respondent had been in rent arrears for a period in excess of three calendar months and the sum outstanding was in excess of one month's rent. A copy of the Notice to Leave is produced with the application.

- e. The Respondent remains in occupation of the Property.
3. At the CMD, the Applicant advised that a payment order had been granted by the Tribunal against the Respondent in respect of the arrears in February 2020. He said that no payments had been made by the Respondent in respect of rent arrears.
 4. In terms of section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act"):-

"51 First-tier Tribunal's power to issue an eviction order

- (1) The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.
- (2) The provisions of schedule 3 stating the circumstances in which the Tribunal may or must find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.
- (3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.
- (4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order."

5. In terms of Ground 12 of Schedule 3 to the 2016 Act:-

"Rent arrears

12(1) It is an eviction ground that the tenant has been in rent arrears for three or more consecutive months.

- (2) The First-tier Tribunal must find that the ground named by subparagraph (1) applies if—
 - (a) at the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, the tenant—

- (i) is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and
 - (ii) has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, and
 - (b) the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
- (3) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
- (a) for three or more consecutive months the tenant has been in arrears of rent, and
 - (b) the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.
- (4) In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.
- (5) For the purposes of this paragraph—
- (a) references to a relevant benefit are to—
 - (i) a rent allowance or rent rebate under the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971),
 - (ii) a payment on account awarded under regulation 91 of those Regulations,
 - (iii) universal credit, where the payment in question included (or ought to have included) an amount under section 11 of the Welfare Reform Act 2012 in respect of rent,
 - (iv) sums payable by virtue of section 73 of the Education (Scotland) Act 1980,
 - (b) references to delay or failure in the payment of a relevant benefit do not include any delay or failure so far as it is referable to an act or omission of the tenant.”

6. The Respondent has been afforded an opportunity to dispute the assertions made by the Applicant in the application and has chosen not to do so. I am therefore satisfied that the assertions made by the Applicant in the application, and the documents produced by him in support of the application, are not in dispute.
7. It follows that I am satisfied that the Notice to Leave is valid and that Ground 12 is satisfied, and in particular Ground 12(2). That being so, I have no discretion. I therefore find that the PRT terminated on 18 March 2020, and 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.

Mr Andrew Upton

Legal Member/Chair

18/03/2020

Date