



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (Act)

Chamber Ref: FTS/HPC/EV/22/4489

Re: Property at 17E Ardgowan Street, Greenock, Inverclyde, PA16 8LG (“the Property”)

Parties:

Mr Douglas Morrison, 87 Albert Road, Gourock, PA19 1NJ (“the Applicant”)

Miss Karen Shearar, 17E Ardgowan Street, Greenock, Inverclyde, PA16 8LG (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted.

Background

This was an application under Rule 109 and section 51(1) of the Act in respect of the Applicants’ intention to sell the Property and for eviction and recovery of possession on Grounds 12 and 12A of Schedule 3 to the Act.

The Tribunal had regard to the following documents:

1. Application received 23 December 2022;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 11 August 2021;
3. Notice to Leave dated served by Sheriff Officer on 17 November 2022 along with pre-action correspondence;
4. Section 11 Notice to Local Authority;

5. Email dated 21 December 2022 to Local Authority serving Section 11 Notice;
6. Correspondence from solicitors to Respondent dated 21 December 2022;
7. Sheriff Officer Certificate of Service of Tribunal CMD Notification on Respondent dated 17 February 2023;
8. Written Representations from the Respondent received 9 March 2023;
9. Updated Rent Statements dated 15 February, 23 March, 2 June and 4 July 2023;
10. Hearing Notification dated 31 May 2023;
11. Written Representations from the Respondent dated 27 June 2023.

Hearing

The case called for a Hearing by conference call on 4 July 2023. The Applicant participated and was represented by his Solicitor. The Respondent did not participate and was not represented.

The Respondent's representative had written to the Tribunal on 27 June 2023 and informed the Tribunal that the Respondent was withdrawing her defence to the application.

The Tribunal explained that it would still have to be satisfied that it was reasonable to grant the order sought.

The Applicant's representative then addressed the Tribunal on the issue of reasonableness. He drew attention to the updated amount of rental arrears which currently stood at £4,729.85. The rent arrears were increasing. The Applicant relied upon the rent as a source of income. The Applicant intended to sell the Property.

The Respondent lived in the Property on her own and was intending to voluntarily remove.

The Tribunal then considered the documentary and oral evidence it had received from the Applicants and in so far as material made the following findings in fact:

1. The Parties let the subjects under a PRTA commencing 11 August 2021;
2. The monthly rent was £550;
3. Notice to Leave had been served on the Respondent on 17 November 2022;
4. As at the date of service of the Notice to Leave the Respondent was in arrears of rent in an amount in excess of 6 months' rent and had been in arrears for a continuous period of three or more consecutive months;
5. As at the date of the Hearing the Respondent was in arrears of rent in the sum of £4,729.85;
6. The rental arrears were not due to any delay or failure in the payment of a relevant benefit;
7. Section 11 notification had been served on the local authority;
8. The Respondent lives in the Property on her own and has no dependents in the Property;
9. The Applicant relies upon the rent as a source of income and he intends to sell the Property.

The Tribunal was satisfied that Ground12A had been established and it was reasonable to grant the application for eviction and recovery of possession given the significant rent arrears which continued to increase.

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.



4 July 2023

Legal Member/Chair

Date