



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/19/0380

Re: Property at 65 March Road, Edinburgh, EH4 3SU (“the Property”)

Parties:

Ms Maureen O’Gorman, Cregboy, Claregalway, Co Galway, Ireland (“the Applicant”)

Mr Michael Hughes, 65 March Road, Edinburgh, EH4 3SU (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent(s) for eviction of the Respondent(s) from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground(s) 12 under schedule 3 to the said Act.

An application was submitted to the Tribunal dated 4 February 2019 under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) seeking a repossession order against the Applicant on the basis of Ground 1 of Schedule 3 to the 2016 Act, in that the Landlord intends to sell the let property. Alongside that application was a corresponding application lodged under Rule 111 of the Rules of the seeking payment of rent arrears in the sum of £6,500.

A Case Management Discussion (“CMD”) took place on 4 April 2019 at which the parties were present. The Applicant was represented by Mrs Mullen of TC Young. The Respondent was personally present and represented himself.

At the CMD the Respondent's position was that the landlord did not have a genuine intention to sell the property. Evidence required to be heard to establish whether Ground 1 had been satisfied and accordingly a Hearing was fixed.

In advance of the Hearing, the Applicant submitted an amendment request under Rule 13 of the Rules seeking to amend the application to include reliance on Ground 12 of schedule 3 to the 2016 Act, being the rent arrears ground. A Notice to Leave was lodged with the amendment application and which was dated 12 April 2019.

The Respondent confirmed receipt of the additional Notice to Leave and confirmed receipt of the amendment application. He confirmed that his position remained unchanged. He did not seek to challenge the amendment. The amendment was accordingly allowed by the Tribunal.

At the CMD, the Respondent had admitted that 50% of the outstanding arrears were due, namely £4,550. At the Hearing, Mrs Mullen advised the Tribunal that no further rent had been paid since the CMD and the arrears now stood at £11,700. In respect of the Applicant's corresponding Rule 111 application, she sought a payment order restricted to the sum of £5,850, to reflect the Respondent's previous position that he was only due to pay 50% of the arrears. The Respondent accepted that the sum of £5,850 was due. The Respondent did not seek to oppose the payment order being granted in said sum. The Tribunal granted an order for payment in the sum of £5,580 against the Respondent on the basis of his admission that said sum fell due.

Thereafter Mrs Mullen for the Applicant sought a repossession order to be granted against the Respondent on the basis of Ground 12. In terms of Ground 12, it was submitted that the Respondent had been in arrears of at least 3 consecutive months and he owed the equivalent of at least one month's rent (one month's rent being £1300). On that basis Mrs Mullen submitted that the ground was a mandatory ground and should be granted by the Tribunal. The Respondent accepted that the sum of £5,850 fell due to be paid and he did not seek to oppose the repossession order being granted on this basis. The Tribunal was satisfied that there were at least 3 consecutive months of rent arrears and that the Respondent, by his own admission, owed the equivalent of at least one month's rent. The Tribunal was accordingly satisfied that Ground 12 had been established.

Accordingly, the Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 12 under schedule 3 to the said Act.

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.

F.Watson

Legal Member/Chair

Date

3/6/19.