



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/18/1966 and FTS/HPC/EV/18/2224

Re: Property at 2/3, 2 Torridon Drive, Renfrew, PA4 0US (“the Property”)

Parties:

Mr Jagdish Singh Panpher, 25 Corran Avenue, Glasgow, G77 6EX (“the Applicant”)

Mrs Devinder Kainth, 17 Gosse Close, Hoddesdon, Herts, EN11 9FG (“the Applicant’s Representative”)

Miss Christina McDonald, 2/3, 2 Torridon Drive, Renfrew, PA4 0US (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) in respect of application FTS/HPC/EV/18/1966 determined to make an order for repossession of the Property against the Respondent and in respect of application FTS/HPC/EV/18/2224 determined to dismiss the application.

- **Background**

- 1 By application dated 4th August 2018 the Applicant sought an order for repossession of the property in terms of section 51 and paragraph 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 on the basis that the Respondent was in arrears of rent for three or more consecutive months. The application proceeded under reference EV/18/1966.

- 2 On 29th August 2018, the Applicant submitted a second application seeking an order for repossession on grounds identical to those stated in application EV/18/1966. The application proceeded under reference EV/18/2224.
- 3 Following submission of the applications, the Tribunal agreed to hear them together given that both related to the same subject matter and same parties. A Case Management Discussion was therefore assigned for 19th September 2018.
- 4 Both applications together with supporting documentation and notification of the Case Management Discussion were served upon the Respondent by Sheriff Officers on 29th August 2018. She made no written representations in response.

- **The Case Management Discussion**

- 5 The Case Management Discussion took place at the Glasgow Tribunals Centre on 19th September 2018. The Applicant was present. The Applicant's Representative participated via teleconference. The Respondent did not attend.
- 6 The Applicant's Representative addressed the Tribunal. As a preliminary matter, she advised that she would be content to dismiss application EV/18/2224 and proceed with application EV/18/1966 alone given the duplication in respect of the applications. She advised that the Respondent had paid no rent since the commencement of the tenancy. Some housing benefit had been received from Renfrewshire Council but the amounts were nominal. The Respondent was not entitled to any backdate of housing benefit. The monthly rent was £550. The arrears outstanding as at the date of the hearing were £3,226.59. The Applicant had been awarded an order for payment of the arrears in that sum by way of a separate application which had been determined by the Tribunal on 23rd August 2018.
- 7 The Applicant's Representative concluded by stating that the Applicant was seeking an award of expenses against the Respondent for the costs of pursuing the application through the Tribunal.

- **Findings in Fact**

- 8 The Applicant and the Respondent entered into a Tenancy Agreement dated 9th February 2018 and 12th February 2018 in respect of the Property. The Tenancy commenced on 23rd February 2018.
- 9 The Tenancy is a private residential tenancy as defined by section 1 of the Private Housing (Tenancies) (Scotland) Act 2016.
- 10 In terms of the said Tenancy Agreement the Respondent agreed to pay rent of £550 per month, due on the 23rd of each month.

- 11 The Respondent was served with a Notice to Leave dated 5th July 2018 which cited paragraph 12 of Schedule 3 of the Housing (Scotland) Act 2016 as the ground for repossession and which stated that proceedings would be raised no earlier than 4th August 2018.
- 12 The Respondent is in arrears of rent amounting to £3,226.59 as at 19th September 2018. The arrears are not a consequence of any delay or failure in the payment of a relevant benefit.

- **Reasons for Decision**

- 13 In respect of application EV/18/1966 the Applicant seeks an order for repossession of a private residential tenancy under section 51 and paragraph 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
- 14 The Respondent had not sought to dispute the terms of the application and had not taken the opportunity to attend the Case Management Discussion. Having regard to the verbal and written submissions from the Applicant and the Applicant's Representative the Tribunal was satisfied that it was able to make sufficient findings at the Case Management Discussion to determine the case without a hearing and that to do so would not be prejudicial to the interests of the parties.
- 15 The Tribunal was satisfied that the Tenant had not paid any rent since the start of the tenancy. The only payments received had been small amounts of housing benefit. The arrears as at the date of the Case Management Discussion were £3,226.59 which far exceeded the monthly rent of £550. The outstanding sum had been adjudicated on by the Tribunal under a separate application and the Tribunal was therefore satisfied that it amounted to rent lawfully due by the Respondent.
- 16 Accordingly, the Tribunal considered that the terms of section 51 and paragraph 12 of Schedule 3 of the 2016 Act were met and therefore determined to make an order for repossession in the case EV/18/1966. In view of the Tribunal's decision in respect of EV/18/1966, it therefore determined to dismiss application EV/18/2224 which was identical in terms of the order sought.
- 17 The Tribunal did not consider it was in a position to award expenses to the Applicant given that the Respondent had not entered the process and had not therefore displayed any unreasonable behaviour in her conduct of the proceeding. The Tribunal therefore determined not to make an order for expenses in the matter.

- **Decision**

18 In the case EV/18/1966 the Tribunal determined to make an order for repossession under section 51 and paragraph 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

19 In the case EV/18/2224, the Tribunal determined to dismiss the application.

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.

Ruth O'Hare

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Legal Member/Chair

19/9/18

Date