



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/19/2128

Re: Property at 63 0/1 Ibroxholm Oval, Glasgow, G51 2TJ (“the Property”)

Parties:

Mr John Graham, c/o Houston Home Lettings Ltd, Office 8, 68 - 74 Queen Elizabeth Avenue, Glasgow, G52 4NQ (“the Applicant”)

Mr Colin Hamilton, 63 0/1 Ibroxholm Oval, Glasgow, G51 2TJ (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondent)

- 1. The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the respondent is in arrears of rent by an amount equal or greater than one month’s rent due under the tenancy agreement; has been in arrears for a continuous period of three months; and the arrears are not wholly or partly a consequence of a delay or failure in a relevant benefit.**
2. This was the third case management discussion ‘CMD’ regarding an eviction application in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’ and s51 of the Private Housing (Tenancies) (Scotland) Act 2016, ‘the Act’.
3. The applicant was represented by Ms Houston of Houston Home Lettings Ltd. The respondent did not attend and was not represented. The respondent was represented at the first CMD by a solicitor. The respondent attended the second CMD on his own behalf. He was given a letter at the CMD on 29 November 2019 notifying him of today’s CMD. Ms Houston stated today that she had offered the respondent a lift to the CMD and he had declined. The tribunal was satisfied that

the respondent was aware of the CMD and it was fair and just to proceed in terms of rule 29 of the rules.

4. The applicant was seeking an eviction today. Ms Houston produced an up to date rent statement which confirmed that the arrears have increased from £2033.98 at the last CMD in November 2019 to £2630.02 as at 20 February 2020.

Discussion

5. The tribunal required to be satisfied that the arrears of rent are not wholly or partly due to a failure in payment in a relevant benefit. Ms Houston made reference to the rent statement lodged and stated that when the tenancy started the respondent was working. He became entitled to housing benefit around December 2018 but the benefit did not cover the full rent and there was a shortfall. She pointed out that the rent was £475 per month and the housing benefit was £295.86, giving a shortfall of well over £100 every month. It was her position that the arrears were as a result of the shortfall and not as a result of any delay or failure in a relevant benefit. The rent account lodged did not appear to have any gaps in rental payment and an amount had been paid every month.
6. Ms Houston also advised that the respondent was now resigned to an eviction order being granted and he was hopeful that this may lead to an improvement in his situation and perhaps access to other benefits to pay off the arrears. Her client may decide to hold off with enforcement but she sought an order today.
7. Ms Houston had lodged further documents with the tribunal in compliance with the directions of 29 November 2019, namely:

- (i) A new s11 notice with the correct information;
- (ii) A legible notice to leave
- (iii) The rent statement attached to the notice to leave
- (iv) A rent statement with arrears as at 28 November 2019.

The tribunal also had the following copy documents:

- (v) Application dated 9 July 2019 and received on that date.
- (vi) The private residential tenancy agreement. 'PRT'.
- (vii) Proof of service of the notice to leave by email dated 27 March 2019.
- (viii) Land certificate.

8. Findings in fact

- (1) The applicant is the owner of the property.
- (2) The parties entered into a PRT for let of the property on 27 September 2018 with a start date of 28 September 2019.
- (3) The agreed monthly rent was £475.
- (4) Rent arrears began to accrue on 28 December 2019.
- (5) A valid notice to leave was served by email on 27 March 2019 which stated that eviction proceedings would not be raised before 1 May 2019.
- (6) There were rent arrears of at least one month's rent of £475 at the date of the notice to leave.
- (7) The rent arrears had been outstanding for at least three months.
- (8) The rent arrears as at today's date have increased to £2630.02 which is in excess of one month's rent.
- (9) The arrears have been outstanding for more than three months.
- (10) The rent arrears are not due to a delay or failure in a relevant benefit.

Reasons

9. This was an undefended eviction application. The application had been adjourned on two occasions to enable the respondent to look at ways of reducing the arrears. The tribunal was satisfied that the ground 12 of the Act was met. It was clear that the arrears were not due wholly or partly to a delay or failure in a relevant benefit. Accordingly the tribunal granted the mandatory order sought.

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.

L.W

Lesley A Ward Legal Member

21 February 2020

Date