



Decision 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/22/3722

Re: Property at 89 Ettrick Street, Wishaw, North Lanarkshire, ML2 7LE (“the Property”)

Parties:

Mr Louis Honson, Mr Kenneth Anderson, 10 Mossneuk Crescent, Wishaw, ML2 8LS; 3 Dunbar Drive, Motherwell, ML1 2EN (“the Applicants”)

Miss Jade Thompson, 89 Ettrick Street, Wishaw, North Lanarkshire, ML2 7LE (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants are entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicants submitted an application under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicants sought an order to evict the Respondent from the property.
2. By decision dated 7 November 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Notice of Acceptance was intimated to the Applicants on 7 November 2022. The Tribunal intimated the application to the parties and advised them of the date, time and conference call details of today’s case management discussion.

4. On 3 and 6 February 2023, the Tribunal received emails from a representative appointed by the Respondent, setting out her position.

The case management discussion

5. The CMD took place by conference call. The Applicants both joined the conference call and the Respondent was represented by Mr Bird. The Respondent's representative explained the Respondent's personal circumstances and advised that the application is not opposed. The Respondent accepted that the rent arrears are as stated by the Applicants. The Respondent tried to arrange for the housing element of her universal credit claim to be paid directly to the Applicants but that did not happen. The consequence of that is that rent arrears accrued. The Respondent did not accept that grounds 11 or 14 were established. If minded to grant the order, the Tribunal was invited to defer the execution of the order for a further 2 weeks to enable the Respondent to find alternative accommodation for her and her 3 children. The Second Applicant explained that the Applicants are now receiving the housing element of universal credit, but the Respondent has not made any arrangement to pay the shortfall of rent, nor the rent arrears, which now amount to £4,700. The Applicants did not oppose the Respondent's motion to defer execution of the order for 2 additional weeks.

Findings in Fact

6. The parties entered into a private residential tenancy which commenced 28 May 2020.
7. The Applicants served the Notice to Leave on the Respondent by email on 8 August 2022.
8. As at the date of the Notice served, the Respondent was in arrears of rent for more than 3 consecutive months.
9. As at the date of this case management discussion, the Respondent was in arrears of rent for more than 3 consecutive months.

Reason for Decision

10. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Respondent did not oppose the application on the basis of ground 12. The Tribunal was not satisfied that grounds 11 or 14 were established. The Respondent asked the Tribunal to defer the execution of the order for a further period of 2 weeks and the Applicants did not oppose that. The Tribunal was satisfied that ground 12 established and that it was reasonable to grant the order evicting the Respondent from the property. On

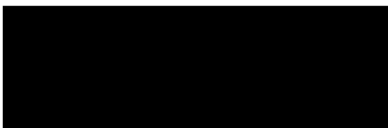
the Respondent's unopposed motion, the execution of the order is delayed for an additional 2 weeks. The order cannot be enforced before 22 March 2023.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.



Legal Member/Chair

6 February 2023
Date