



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/22/2264

Re: Property at Flat 1, 208 Middleton Street, Alexandria, G83 0DJ (“the Property”)

Parties:

Ms Marion Parks, 11 Castle Meadow, Suffolk, IP8 4RQ (“the Applicant”)

Ms Martina Hetherington, Mr Gavin Devine, Flat 1, 208 Middleton Street, Alexandria, G83 0DJ (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Leslie Forrest (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted against the respondents

Introduction

1. The application seeks an eviction order and is under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. Intimation of the application and of the Case Management Discussion (CMD) was effected upon the respondents by Sheriff Officers on 1 December 2022.
3. The CMD took place by teleconference on 1 February 2023 at 2.00 pm. The applicant was represented by Ms Renee Anderson of Lomond Letting Ltd. The respondents failed to participate in the hearing. There was no known barrier to them doing so. They had not lodged any representations.

Findings and Reasons

4. The property is Flat 1, 208 Middleton Street, Alexandria G83 0DJ.
5. The applicant is Ms Marion Parks who is the heritable proprietor of the property and the registered landlord. The respondents are Ms Martina Hetherington and Mr Gavin Devine who are the tenants.
6. The parties entered into a private residential tenancy which commenced on 30 October 2019. The rent was stipulated as £575 per month.
7. The eviction proceedings are based upon arrears of rent and the ground relied upon is ground 12, contained within Part 1, Schedule 3 to the 2016 Act, namely that the respondents are in rent arrears over three consecutive months.
8. The application is supported by a detailed rent statement which reflects the arrears of rent relied upon. The Tribunal found this unchallenged documentary evidence credible and reliable and attached weight to it. The amount of unpaid rent outstanding is currently £3,462.50.
9. With recent effect, direct payments of the housing element of universal credit are now being paid directly to the applicant's agent. The payments are less than the monthly rent. £550 is being received whilst the rent is £575. The arrears are increasing month on month.
10. The Tribunal found that the Notice to Leave upon which the eviction application proceeds is valid. It is dated 16 December 2021. It states an application will not be submitted to the Tribunal for an eviction before 30 June 2022. The Notice to Leave was served by way of recorded delivery and there is evidence from the post office track and trace system that the item was delivered on 22 December 2021. The required 6 month notice period together with the additional minimum days, as required in terms of Section 62 of the Act has been complied with. The Tribunal was satisfied that more than three consecutive months of rent were outstanding as at the date the Notice to Leave was served and as the hearing. This establishes ground 12.
11. Ground 12 as originally drafted was a mandatory ground for eviction. All eviction grounds are now discretionary. The Tribunal proceeded to consider the issue of reasonableness.
12. The respondents are a young couple. The respondents' last report to the applicant's agents was that Mr Devine was employed. Neither of the respondents have any known disabilities or other vulnerabilities. They are known to have had two young children at the time the tenancy commenced.
13. It is unreasonable for the applicant to require to make accommodation available in the absence of rent being paid. Despite some assurances some time ago to repay the arrears the respondents have not engaged in discussions regarding the arrears for many months now. They have made no effort at all to pay off the arrears.
14. There is evidence that the local authority has been advised of the eviction proceedings with a relevant section 11 Notice having been issued by the applicants. In the event of an eviction order being granted that the local

authority is obliged to make alternative accommodation available to the respondents.

15. The Rent Arrears Pre-Action Requirements were found to have been adequately complied with.

16. In all of the circumstances the Tribunal determined that it was reasonable to grant the eviction order sought by the applicant which is unopposed.

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.

Richard Mill

1 February 2023

Legal Member/Chair

Date