



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18(1) of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/EV/22/3123

Re: Property at 1048 Cathcart Road, Flat 3/2 Mount Florida, Glasgow, G42 9XW (“the Property”)

Parties:

Mr Saptal Chander, Mrs Asha Chander, 6 Sandleford Drive, Bedford, MK42 9GN (“the Applicant”)

Mr Mohammed Yasin, Nadim Kauser Yasim, 1048 Cathcart Road, Flat 3/2 Mount Florida, Glasgow, G42 9XW (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction

Background

1. By application dated 30th August 2022 the applicants seek an order for eviction, relying on grounds 8, 11 and 12 in Schedule 5 of the Housing (Scotland) Act 1988.
2. The applicants lodged the following documents with the application:
 - Copy short assured tenancy agreement
 - Form AT5
 - From AT6, Notice to quit and section 33 notices dated 24th November 2021 together with proof of service

- Letter to the respondents dated 26th August 2022 advising them to seek advice and enclosing Scottish Government guidance.
 - Rent statement
 - Notice under section 11 of the Homelessness Etc. (Scotland) Act 2003.
3. The present application was conjoined with an application seeking an order for payment against the respondents under Tribunal reference FTS/HPC/CV/3125.
 4. A case management discussion (“cmd”) was assigned for 12th December 2022.
 5. On 10th November 2022 the applicants’ representative lodged an updated rent statement showing outstanding rent arrears had increased to £10,400.

Case management discussion – 12th December 2022- teleconference

6. The applicants were represented at the cmd by Mrs Wilson, solicitor of Patten & Prentice solicitors. The respondents were not present or represented. The Tribunal was satisfied that proper notice of the cmd had been served on the respondents and determined to proceed with the cmd in their absence.
7. Mrs Wilson advised that arrears had increased to £11,150. She explained that as per the rent statement which had been lodged, the respondents had not paid any rent since July 2022.
8. In relation to the question of whether it was reasonable to grant an order for eviction, Mrs Wilson explained that the first respondent was 66 years old. The applicants had been advised that due to relationship breakdown the second respondent had removed from the property and was no longer residing there. Mrs Wilson was unable to confirm the date when the second respondent had removed from the property. Mrs Wilson advised that the property had four bedrooms. At the time the respondents moved into the property they had resided with their two children. So far as the applicants were aware the first respondent now lived in the property with one of the couples’ children.
9. Mrs Wilson submitted that the first respondent had advised the applicants that he was in poor health, possibly as a result of covid however, Mrs Wilson had no further specific information in relation to the first respondent’s health. Mrs Wilson explained that there had been some contact between the applicants and

the first respondent and one of their daughters in recent months. The applicants had offered to lease a smaller and more affordable property to the first respondent however, he had refused that offer. He had also indicated to them that he would not make payment of the rent in his current tenancy until the Tribunal had determined both applications.

Findings in fact

10. Parties entered in a short assured tenancy agreement with a commencement date of 27th February 2016.
11. Monthly rent due in terms of the agreement was initially £695 and had increased to £750 in January 2020.
12. The respondents had fallen into arrears from January 2020.
13. Rental payments had been made inconsistently and arrears grew from January 2020.
14. Arrears as at 10th November 2022 amounted to £10,400.
15. The applicants complied with the pre-action requirements set out in the Rent Arrears Pre Action-Requirements (Coronavirus) (Scotland) Regulations 2020.
16. Grounds 8, 11 and 12, in schedule 5 of the 1988 Act have been established.

Reasons for the decision

17. The Tribunal had regard to the application and the documents lodged by the applicants. The Tribunal also took into account Mrs Wilson's submissions at the cmd.
18. The Tribunal determined that the correspondence sent to the respondents complied with the pre-action requirements. The respondents had been provided with information relating to the rent arrears and guidance on how to access assistance.
19. The Tribunal was satisfied that the arrears at the property amounted to £11,150 as at the date of the cmd. This amounted to more than three months' rent. The Tribunal was satisfied that the respondents had been persistently late in payment of rent. Accordingly, grounds 8, 11 and 12 had been established.
20. The Tribunal required to consider whether it was reasonable to grant an order for eviction. The Tribunal took into account the information provided by Mrs

Wilson in relation to the respondents' personal circumstances. The Tribunal noted the high level of arrears, which continued to rise and that no payment had been made by the respondents for a considerable period of time. The Tribunal took into account that the respondents had not taken any steps to oppose the application or lodge a defence. The Tribunal took into account that the applicants had offered an alternative more affordable property to the first respondent which had not been accepted.

21. In the foregoing circumstances the Tribunal determined that it was reasonable to grant an order for eviction.

Decision

The tribunal determined to grant an order for eviction.

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.

Mary-Claire Kelly

Legal Member/Chair:

Date: 12th December 2022