



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under 51 of the Private Housing Tenancies (Scotland) Act 2016 (“the Act”)

Chamber Ref: FTS/HPC/EV/23/0793

Re: Property at 190 Shawbridge Street, Glasgow, G43 1PG (“the Property”)

Parties:

Lowther Homes Limited, Wheatley House, 25 Cochrane Street, Glasgow, G1 1HL (“the Applicant”)

Mr Ian Grant, 190 Shawbridge Street, Glasgow, G43 1PG (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Miss E Munroe (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. This is a Rule 109 application. The Applicant is seeking an eviction order under ground 12A. The Applicant’s representative lodged a copy of the tenancy agreement, which commenced on 10th June 2022 with a monthly rent of £550, copy Notice to Leave dated and served on 3rd February 2023, copy section 11 notice and evidence of service, pre-action requirement correspondence, and a rent statement.
2. On 4th July 2023, the Applicant’s representative lodged an updated rent statement.
3. A Case Management Discussion (“CMD”) took place by telephone conference on 12th July 2023. The Applicant was represented by Mr David Adams, Solicitor. The Respondent was in attendance. The arrears at that date were £6219.51. Having heard from parties, the CMD was continued to a further CMD to allow the Respondent to make payment of rent and £70 to £100 per week towards the arrears. The Respondent was advised to take advice on his position.

4. Parties were notified of a further CMD by letter dated 18th September 2023.
5. By email dated 4th October 2023, the Applicant lodged an updated rent statement showing arrears in the sum of £7919.01.
6. By email dated 7th October 2023, the Applicant lodged an Inventory of Productions, enclosing email correspondence between the parties from 13th July to 8th August 2023, whereby the Respondent repeatedly promised to make payment towards the arrears.

Case Management Discussion

7. A Case Management Discussion (“CMD”) took place by telephone conference on 12th July 2023. The Applicant was represented by Mr David Adams, Solicitor. The Respondent was not in attendance.
8. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
9. Mr Adams moved the Tribunal to grant the order. The arrears are currently £7919.01. There has been no further contact from the Respondent. Mr Adams submitted it was not realistic to carry on with such substantial arrears. No explanation has been given by the Respondent for the current situation, and there has been no recent contact between the parties. Mr Adams submitted it was reasonable to grant the order.

Findings in Fact and Law

10.
 - (i) Parties entered into a private residential tenancy agreement in respect of the Property that commenced on 10th June 2022 with a monthly rent of £550.
 - (ii) The Applicant has served a Notice to Leave upon the Respondent.
 - (iii) The Respondent has accrued rent arrears.
 - (iv) The Respondent had substantial rent arrears which exceeded an amount that is the equivalent of 6 months’ rent at the time of serving the Notices to Leave.
 - (v) The Respondent being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit.
 - (vi) The Applicant has complied with the pre-action protocol.
 - (vii) It is reasonable to grant an eviction order.

Reasons for Decision

11. Ground 12A of Schedule 3 of the Act provides that it is an eviction ground that the tenant has substantial rent arrears. The Tribunal may find that this applies if the tenant has accrued rent arrears and the cumulative amount of the arrears equate to, or exceeds, an amount that is the equivalent of 6 months' rent under the tenancy when notice to leave is given. The Tribunal must be satisfied that it is reasonable to issue an eviction order on account of that fact.
12. The Respondent had substantial rent arrears which exceeded an amount that is more than the equivalent of 6 months' rent at the time of serving the Notices to Leave. The Respondent being in rent arrears is not as a result of a delay or failure in the payment of a relevant benefit. The Tribunal is satisfied that Ground 12A has been established.
13. In considering whether it was reasonable to grant the eviction order, the Tribunal considered the circumstances of both parties.
14. The Tribunal considered the previous information provided by the Respondent at the first CMD, taking into account that he had fallen on difficult times, and that he has medical issues that may be impacted by eviction. At that time, however, he was in employment and adamant that he was in a position to pay the rent and make substantial payment towards the arrears. The Respondent has made no payment towards either the rent or arrears since the last CMD. The Respondent was not present to put forward any other information on his current circumstances, despite being notified of the CMD.
15. The Applicant is entitled to rent lawfully due in terms of the tenancy agreement. The Respondent has failed to make payment of rent for some time, and he has not made payment towards the arrears, despite promises to do so. The arrears are substantial. The Applicant has complied with the pre-action protocol.
16. In all the circumstances, the Tribunal considered it reasonable to grant the order sought.

Decision

17. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on 21st November 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.



Legal Member/Chair

19th October 2023
Date