



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“The Act”)

Chamber Ref: FTS/HPC/EV/23/3743

Re: Property at 545 West Whins, The Park, Findhorn, Moray, IV36 3SH (“the Property”)

Parties:

Ms Alexandra Angus, Unit 310, 2365 West 1st Avenue, Vancouver, BC, V6K 1G4, Canada (“the Applicant”)

Miss Patricia (Trish) Fenton, 545 West Whins, The Park, Findhorn, Moray, UK, IV36 3SH (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the application and made an eviction order.

Background

[2] The Applicant seeks an Eviction Order under grounds 11 and 12 of Schedule 3 of the Act. The Application is accompanied by a copy of the relevant tenancy agreement, rent statements, the notice to leave relied on with proof of service, the relevant notice under section 11 of the Homelessness (Etc) (Scotland) Act 2003 and evidence of compliance with The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) 2020.

The Hearing

[3] The Application called for Case Management Discussion (“CMD”) by conference call at 2 PM on 13 March 2024. The Applicant was personally present. There was no appearance either by or on behalf of the Respondent. On the basis that the Application and information about how to join the CMD had been competently served on the respondent by Sheriff Officers, the Tribunal decided to proceed in the absence of the Respondent. The Tribunal discussed all aspects of the Application with the Applicant. Having done so, the Tribunal made the following findings in fact.

- I. *The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondent by virtue of a Private Residential Tenancy Agreement.*
- II. *The contractual monthly rent was £740.00.*
- III. *The Respondent fell into rent arrears.*
- IV. *The Applicant competently served a Notice to Leave under grounds 11 and 12 of the Act.*
- V. *Ground 11 was established at the date of service of the notice to leave because the Respondent had been subletting the Property for financial gain and contrary to the contractual terms of the tenancy agreement.*
- VI. *Ground 12 was also established as at the date of service of the notice to leave.*
- VII. *The Applicant has complied with the terms of section 11 of the Homelessness (Etc) (Scotland) Act 2003 and The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) 2020.*
- VIII. *The Respondent has no dependents and lives alone in the Property.*
- IX. *The Respondent’s rent arrears are not thought to be caused by any delay in payment of any state benefit. In fact, Housing Benefit has been paid directly to the Applicant since the start of the tenancy although the amount paid does not cover the monthly rent and the Respondent has failed to make any payments towards the shortfall or the arrears.*
- X. *The Respondent has not engaged with the Tribunal process.*
- XI. *The Respondent’s rent arrears are currently in the sum of £3,912.20. These rent arrears continue to increase.*

Decision

[4] Having made the above findings in fact, the Tribunal found that grounds 11 and 12 were established and that it was reasonable to make an eviction order.

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

13 March 2023

Date