



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) Act 2016

Chamber Ref: FTS/HPC/EV/23/4524

Re: Property at 20/6 Montrose Street, Clydebank, G81 2JF (“the Property”)

Parties:

Mr Gary Paul Richards, Mrs Carol Richards, 150 Poplar Grove, Kennington, Oxford, Oxfordshire (“the Applicant”)

Mr Andrei-George Malasinc, Mrs Andrea Berendea, 20/6 Montrose Street, Clydebank, G81 2JF; 20/6 Montrose Street, Clydebank, G81 2JF (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (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 to grant an order for eviction.

Background

1. By application dated 14 December 2023 the applicant seeks an order for eviction, relying on grounds 1 and 12 in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Notice to Leave and Guidance (ground 1)
 - Notice to Leave and Guidance (ground 12)
 - Proof of delivery of notices to leave

- Pre-action requirement letters
 - Rent schedule
 - Letter from BK Gill solicitors re marketing the property
 - Affidavit of the applicant
 - Notice under section 11 of the Homelessness Etc. (Scotland) Act 2003
 - Email correspondence from the respondents
3. The respondents contacted the Tribunal in advance of the case management discussion (“cmd”) to advise that they required the services of a Romanian interpreter at the cmd.

Case management discussion – teleconference – 29th April 2024

4. The applicant was represented by Ms White, solicitor from Jackson Boyd Solicitors. The respondents were not present or represented. The Tribunal was satisfied that the respondents had received proper notice of the cmd and proceeded with the cmd in their absence in terms of rule 29.
5. Ms White sought an order for eviction the basis that both grounds had been established as set out in the affidavit of the applicant dated 25th April 2024.
6. In relation to ground 1 Ms White stated that the applicant was not the landlord of any other properties. She had found the process of renting to the respondents to be very stressful. She did not wish to re-let the property due to the risk of encountering similar issues and had therefore instructed agents to sell the property. A letter confirming their instruction from the selling agents had been lodged.
7. In relation to ground 12 Ms White stated that the amount of outstanding arrears was £4640. No payment of rent had been received from the respondents since August 2023. Ms White highlighted correspondence which had been lodged in which the respondents emailed the applicant on 2 August 2023 stating that they would no longer pay rent as the applicant had notified the local council that a notice to leave had been lodged. The respondents stated that the applicant had jeopardised their chances of receiving a council property and this was the reason they would stop paying rent.

8. Ms White stated that as set out in the affidavit which had been lodged the respondents had applied for benefits to cover the cost of the rent however no sums had been received by the applicant.
9. In relation to the personal circumstances of the respondents Ms White advised that to her knowledge they continued to reside in the property. The respondents resided with their two sons.
10. The Tribunal noted that in terms of the affidavit and email correspondence from neighbours that had been lodged the applicant had received numerous complaints regarding the antisocial behaviour of the respondents in particular their persistent disruptive behaviour which was affecting their neighbours enjoyment of their properties. The affidavit also highlighted that the applicant and her husband had been impacted by the stress of the tenancy to the detriment of their wellbeing and health.

Findings in fact

11. Parties entered into a Private Residential Tenancy agreement with a commencement date of 4th June 2019.
12. The monthly rent due is £580.
13. No rent has been paid since 1st August 2023.
14. Notice to leave was served on 13th September 2023. As at that date rent arrears were £1740.
15. Arrears as at the date of the cmd amounted to £4640
16. Ground 12 in schedule 3 of the 2016 Act is established.
17. The applicant intends to sell the property and has instructed agents to market the property for sale.
18. Ground 1 in schedule 3 of the 2016 Act is established.
19. It is reasonable to grant an order for eviction

Reasons for the decision

20. The Tribunal had regard to the application and the documents lodged by the applicant. The Tribunal also took into account oral submissions at the cmd.

21. The Tribunal took into account that the respondents had not lodged any written response to the application. They had requested an interpreter be present for the cmd which was arranged and then did not attend the cmd.
22. The Tribunal accepted that due to her personal circumstances and the conduct of the tenancy by the respondents the applicant did not wish to continue as a landlord and intended to sell the property. The Tribunal accepted as credible the evidence set out in the applicant's affidavit which was corroborated by the rent schedule and correspondence which had been lodged. The Tribunal accepted that the respondents conduct had placed considerable stress on the applicant. They had amassed a large amount of rent arrears and behaved in a disruptive manner.
23. The Tribunal took into account that the respondents lived in the property with their 2 children however, they had not sought to mount a defence based on reasonableness and no further information had been provided to the Tribunal setting out the impact of eviction on the respondents and their family.
24. The Tribunal gave considerable weight to the fact that arrears were increasing and were £4640 at the time of the cmd. It was likely that arrears would continue to rise as the respondents had taken no steps to address the arrears and had stated from August 2023 that it was their intention not to pay any rent.
25. In the foregoing circumstances the Tribunal determined that it was reasonable 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.

M. C. Kelly

Legal Member/Chair

29th April 2024
Date