



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/24/3258

Re: Property at 36C Friar Street, Perth, PH2 0ED (“the Property”)

Parties:

Mrs Fiona McPhail, The Orchard, Cairneyhill Road, Bankfoot, PH1 4AG (“the Applicant”)

Mr Stuart Henderson, 36C Friar Street, Perth, PH2 0ED (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

- Background

This is an application for an eviction order against the Respondent, who occupies the Property in terms of a private residential tenancy agreement with the Applicant. It called for case management discussion (‘CMD’) at 10am on 29 November 2024, by teleconference. The Applicant was on the call in-person and was represented by Mrs Bernadette O’Connor, of Simple Approach Letting Agents. The Respondent was not on the call or represented. The commencement of the CMD was delayed by 10 minutes in case he was experiencing any technical difficulty; but there remained no contact from him.

The Respondent had entered a written response giving some information regarding his dealings with the letting agents, but not setting out any substantive defence to the application. This also indicated that he would not intend to attend any hearing. The Tribunal therefore considered that he was aware of the CMD and that it was fair to proceed in his absence.

- Findings in Fact

The Tribunal considered the following unopposed facts as relevant to its decision:

1. The Applicant lets the Property to the Respondent in terms of a private residential tenancy agreement with a start date of 25 June 2021.
2. In terms of the tenancy agreement, rent of £450 was initially due, on the 1st day of each month.
3. The rental charge was increased by notice to £463.50 per month, commencing 1 August 2023.
4. The Respondent paid no rent on 1 January 2024 and has made no payment of rent since.
5. On 30 April and 20 May 2024, the Applicant sent the Respondent letters conforming with the requirements of the pre-action protocol prescribed by Scottish Ministers for rent arrears cases.
6. On 29 May 2024, the Applicant sent the Respondent a notice to leave, stating that he would rely on Ground 12 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 ('the Act') in any application to the Tribunal to follow.

- Reasons for Decision

7. On the basis of the facts as above, the Tribunal considered that Ground 12 of Schedule 3 to the Act was satisfied. The Respondent has been in arrears for almost 11 consecutive months, which is a substantial period of time. The Respondent's written submission indicated that he intended to vacate the Property in January; but did not make any proposal regarding the outstanding arrears, or suggest that he did not consider these sums due. Indeed, he appeared to have withdrawn from engagement with the Tribunal process entirely. There can be no certainty that he will leave the Property when he says he will and it is not reasonable to expect the Applicant to await this, absent any indication of any intent to address the arrears, or even pay the ongoing rent charge. On that basis, the Tribunal considered it was reasonable to grant an order for his eviction.

- Decision

Eviction order granted.

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.

N. Young

Legal Member/Chair

29th November 2024

Date
