



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/24/2853

Re: Property at 178/4 Gylemuir Road, Corstorphine, EH12 7DN (“the Property”)

Parties:

Hawksdale Ltd, Cronk Beg, Ballagawne Road, Colby, Isle of Mann, IM9 4AZ (“the Applicant”)

Miss Gemma Pringle, Mr Robert Hemming, 178/4 Gylemuir Road, Corstorphine, EH12 7DN (“the Respondents”)

Tribunal Members:

Richard Mill (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order be made against the Respondents for payment to the Applicant of the sum of Seven Thousand One Hundred and Seventy Three Pounds and Ninety Three Pence (£7,173.93)

Introduction

1. These are linked applications between the same parties. The first application seeks an eviction order and is under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The second application seeks a payment order relating to arrears of rent and is under Rule 111 and Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. This decision applies to both cases and comprehensively sets out all the facts and circumstances.
2. Service of the applications and intimation of the Case Management Discussions (CMDs) was effected by Sheriff Officers on the first respondent on 11

November 2024. Service by advertisement has been made in respect of the second respondent with a certificate being produced which confirms this.

3. The CMD hearing in both cases took place by teleconference on 18 December 2024 at 10.00 am. The applicant was represented by Ms Mandy McGowan of Factotum Letting Agents. There was no appearance by or on behalf of either respondents. No representations have been received from either of them.

Findings and Reasons

4. The property is 178/4 Gylemuir Road, Corstorphine, Edinburgh EH12 7DN. The applicant is Hawksdale Ltd who is the heritable proprietor and registered landlord. The respondents are Miss Gemma Pringle and Mr Robert Hemming who are the named tenants.
5. A private residential tenancy was entered into between the parties which commenced on 12 April 2023. The rent stipulated was £850 per month.
6. The respondents have fallen into significant arrears of rent throughout the subsistence of the short duration of the lease. At the time that the applications were submitted to the Tribunal, rent arrears were £7,173.93. The arrears are evidenced by an unchallenged credible and reliable rent statement which the Tribunal attached significant weight to.
7. The applicant is entitled to recover arrears of rent due under and in terms of the written lease between the parties. The Respondents have made no proposals for payment. An order is necessary. The Tribunal therefore granted a payment order against the respondents in the sum of £7,173.93. There is no opposition by the respondents and no time to pay direction application has been made by the respondents.
8. The eviction proceedings are based upon the arrears of rent and the ground relied upon is ground 12, contained within Part 1, Schedule 3 to the 2016 Act, namely that the respondents are in rent arrears over three consecutive months.
9. The Tribunal found that the Notice to Leave upon which the eviction application proceeds is valid. It is dated 21 May 2024. This states that an application will not be submitted to the Tribunal for an eviction before 21 June 2024. The Notice is compliant with the requirements set out in Section 62 of the Act. It is also noted that there is evidence that the Notice to Leave was served upon the respondents by email on the date that it is dated. Sufficient statutory notice was given.
10. The Tribunal was satisfied that more than three consecutive months of rent was outstanding at the time that the Notice to Leave was served and also remains unpaid by the respondents. This establishes ground 12. All eviction grounds are discretionary. The Tribunal proceeded to consider the issue of reasonableness.

11. The respondents are known to be unemployed. They have a one year old child. Little is known otherwise about their circumstances as they have failed to cooperate in this process.
12. The applicant is adversely affected financially by the absence of rent being paid. The rent arrears are significant. It is unreasonable to require the applicant to continue to provide accommodation to either respondent in the absence of rent being paid. No payments of rent have been made since January 2024.
13. There is evidence that the local authority has been advised of the eviction proceedings with a relevant section 11 Notice having been issued by the applicant. In the event of an eviction order being granted the local authority has an obligation to make alternative accommodation available to the respondents.
14. The Tribunal found that the rent arrears pre-action requirements have been adequately fulfilled by the applicant.
15. In all of the circumstances, the Tribunal determined it was reasonable to grant the eviction order sought by the applicant. The tribunal extended the period for implementation beyond the standard 30 day period to reflect the upcoming festive holidays. The implementation date will not be before 31 January 2025 which is fair and proportionate.

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.

Richard Mill

18 December 2024

Legal Member/Chair

Date