



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/19/0545

Re: Property at 112 Calder Place, Falkirk, FK1 2QQ ("the Property")

Parties:

Mr Neil Friis Jorgensen, Matrix Property Management Ltd, 132 St Stephen Street, Edinburgh, EH3 5AA ("the Applicant")

Mr Andrew Watson, Ms Kayleigh Bennie, 112 Calder Place, Falkirk, FK1 2QQ ("the Respondent")

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be granted without a hearing and issued an Eviction Order against the Respondent.

Background

By application, received by the Tribunal on 19 February 2019, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act"). The Ground relied on was Ground 12 of Part 3 of Schedule 3 to the 2016 Act.

The application was accompanied by copies of a Notice to Leave dated 15 January 2019, informing the Respondent that the Applicant intended to apply to the Tribunal for an Eviction Order and advising that the application would not be submitted before 15 February 2019, and a rental statement showing arrears as at 19 February 2019 of £1,811.36. The application was also accompanied by a copy of a Private Residential Tenancy Agreement between the Parties, commencing on 19 December 2017 at a rent of £475 per month.

On 9 April 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 25 April 2019.

The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held at STEP Stirling, Stirling Enterprise Park, John Player Building, Stirling, on the afternoon of 30 April 2019. The Applicant was represented by Ms Catherine Berrill of Hill & Robb, Solicitors, Stirling. The Respondent was not present or represented.

Ms Berrill confirmed that the rent was now £2,090.70 in arrears and asked the Tribunal to make an Eviction Order without a hearing.

Reasons for Decision

Rule 17 of the First-tier Tribunal or Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything a case management discussion which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it would decide the application without a hearing.

Ground 12 of part 3 of Schedule 3 to the 2016 Act states that it is an eviction ground that the tenant has been in rent arrears for three or more consecutive months and that the Tribunal **must** find that Ground 12 applies if (a) at the beginning of the day on which the Tribunal first considers the application for an eviction order on its merits, the tenant is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, and (b) the Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in payment of a relevant benefit.

The Tribunal was satisfied that the requirements of Ground 12 of Part 3 of Schedule 3 to the 2016 Act had been met. The rent had been continuously in arrears since February 2018 and the arrears now stood at £2,090.70. The monthly rent was £475. The Respondent had not provided any evidence to suggest that the arrears were in any way attributable to a delay or failure in the payment of a relevant benefit. Accordingly, the Tribunal is bound to issue the Eviction Order.

Decision

The Tribunal determined that the application should be granted without a hearing and issued an Eviction Order against the Respondent.

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.

Mr George Clark

Legal Member/Chair

30 April 2019

Date