



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/19/2526

Re: Property at 163 Greenrigg Road, Cumbernauld, Glasgow, G67 2QB (“the Property”)

Parties:

Miss Janice Leary, c/o 93 South Bridge Street, Bathgate, West Lothian, EH48 1TJ (“the Applicant”)

Mr Lee McLaren, 163 Greenrigg Road, Cumbernauld, Glasgow, G67 2QB (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property.

Background

1. By application dated 9 August 2019 the Applicant’s representatives Bannatyne, Kirkwood France & Co applied to the Tribunal for an order for the eviction of the Respondent from the property. They supplied the Tribunal with a copy of the Private Residential tenancy agreement, a rent statement, Letter of Authority, Notice to Leave, confirmation of Service of notice to Leave, Section 11 Notice and copy email intimating same.
2. By Notice of Acceptance dated 22 August 2019 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion was assigned.

3. Intimation of the Case Management Discussion was given to the Applicant's representatives by post on 30 August 2019 and to the Respondent by Sheriff Officers on 2 September 2019.
4. No written representations were received from the Respondent in advance of the Case Management discussion and no further representations were received from the Applicant's representatives.

The Case Management Discussion

5. A Case Management Discussion was held at Glasgow Tribunals Centre, 20 York Street, Glasgow on 4 October 2019. It was attended by Ms Kirsty Donnelly of the Applicant's representatives on behalf of the Applicant. The Respondent did not attend and was not represented. As the Respondent had been given proper notice of the Case Management discussion the Tribunal determined to proceed in his absence in accordance with Rule 29 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
6. Ms Donnelly confirmed to the Tribunal that the parties had entered into a Private Residential Tenancy Agreement that commenced on 1 February 2019 at a rent of £250.00 per calendar month. She referred the Tribunal to a rent statement that showed that as at 1 October 2019 the Respondent had accrued rent arrears of £1280.00. A Notice to Leave had been sent to the Respondent on 4 July 2019 confirming that the ground for eviction was Ground 12 of Schedule 3 of the 2016 Act. In Ms Donnelly's submission the ground for eviction had been established as the Respondent had been in arrears of rent for more than three consecutive months and there was more than the equivalent of one month's rent due on the date of the Case Management discussion. She therefore asked the Tribunal to grant the order sought.

Findings in Fact

7. The parties entered into a Private Residential Tenancy agreement that commenced on 1 February 2019 at a monthly rent of £250.00.
8. The Respondent fell into arrears of rent with effect from 1 April 2019.
9. The arrears at the date on which the Notice to Leave was sent amounted to £530.00
10. The Notice to Leave was sent by email to the Respondent on 4 July 2019.
11. At the date of the Case Management Discussion the arrears of rent had increased to £1280.00 and no rent had been paid by the Respondent since 17 June 2019.

Reasons for Decision

12. The Tribunal was satisfied from the documents produced and the oral submissions from the Applicant's representative that the parties had entered into a Private Residential Tenancy Agreement that commenced on 1 February 2019 at a monthly rent of £250.00.
13. The Tribunal was satisfied that the Respondent had accrued rent arrears over three consecutive months at the time the Notice to Leave was served on him by email on 4 July 2019. The tribunal was also satisfied that the Respondent had made no payment of rent since 17 April 2019 and that as at the date of the Case Management Discussion the rent arrears had risen to £1280.00. There was therefore more than the equivalent of one month's rent due and the Respondent had been in arrears for more than three consecutive months. The terms of Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 had therefore been met and as this was a mandatory ground for granting eviction the Tribunal was obliged to grant the order sought.

Decision

14. The Tribunal found the Applicant entitled to an order for the eviction of the Respondent from the property in terms of Section 51 and Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland Act 2016.

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.

Graham Harding

Legal Member/Chair

4 October 2019

Date