



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/19/3378

Re: Property at 12 St Giles Place, Dundee, DD3 9JB (“the Property”)

Parties:

Miss Julie Mitchell, 5 Liff Crescent, Dundee, DD4 4JZ (“the Applicant”)

Ms Teri-Louise Samson, 12 St Giles Place, Dundee, DD3 9JB (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant

1. An application was received by the Housing and Property Chamber on 7th October 2019. It was dated 5th October 2019. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to ground 12 of the Private Housing (Tenancies) Act 2016 in that the Respondent has been in rent arrears for 3 or more consecutive months.
2. The application included:-
 - a. Copy Scottish Government Model Private Residential Tenancy Agreement with commencement of tenancy being 16th July 2018;
 - b. Notice to Leave signed 30th August 2019 stating an application would not be submitted to the Tribunal before 4th October 2019;
 - c. Section 11 notice noting proceedings would not be raised before 4th October 2019;
 - d. Rent statement from 16th August 2018 to 16th September 2019. This detailed the rent of £695 per month and arrears of £2834; and

- e. Copy email dated 30th August 2019 serving Notice to Leave upon the Respondent.
3. The Tribunal also had before it a copy of the title deeds numbered ANG24559.
4. On 12th November 2019, all parties were written to with the date for the Case Management Discussion ("CMD") of 13th December 2019 at 10am at Caledonia House, Greenmarket, Dundee. The letter also requested all written representations be submitted by 3rd December 2019.
5. On 14th November 2019, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service and first class post. This was evidenced by Certificate of Citation dated 14th November 2019.

The Case Management Discussion

6. A CMD was held on 13th December 2019 at 10am at Caledonia House, Greenmarket, Dundee. The Applicant was represented by Mr Trevor White from Rent Locally. Ms Adrienne Brand, Mr White's assistant was also present. The Respondent attended with her sister Alisha Samson. Neither party made representations in advance of the hearing. Mr White informed the Tribunal that the arrears had risen to £4502.50 increasing to £5197 on 16th December 2019. Ms Samson explained that she has had several personal issues this year and has been on long term sick leave. She returned to work on or around 1st November 2019 but will not received her first full wage until her December wage payment. She has not made payments when she has been off from her work. She did not apply for Housing Benefit. She was not opposing the Order as she was not in the position to make payments and did not dispute the arrears.

Findings and reason for decision

7. A Private Rented Tenancy Agreement commenced 16th July 2018.
8. The Respondent persistently failed to pay her rent charge of £695 per month. The rent payments are due to be paid on 16th day of each month.
9. Arrears accrued to more than one months rent payment at the date of application and was in arrears for more than three months consecutive rent payments at the date of the hearing.
10. There are no outstanding Housing Benefit issues.
11. The arrears totalled £4502.50.

Decision

The Tribunal found that ground 12 has been established that the Respondent had been in arrears for an amount greater than 1 months rent for a period of 3 consecutive months. The Tribunal granted an order in favour of the Applicant.

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

Gabrielle Miller

ber/Chair

Date 13 DEC 19