



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (hereinafter referred to as “the 2016 Act”) for an Eviction Order.

Chamber Ref: FTS/HPC/EV/19/4066

Re: Property: 87 Glenview Crescent, Moodiesburn, Glasgow, G69 0NJ

Parties:

Ian Stewart, 20 Durrockstock Crescent, Paisley, PA2 0AW (“the Applicant”)

Alexander Pyott, 87 Glenview Crescent, Moodiesburn, Glasgow, G69 0NJ (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (hereinafter referred to as “the 2016 Act”) for an Eviction Order. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made.

Attendance and Representation

The Applicant’s representatives, Nicola Edwards and Douglas McBain from Contempo Property, Milngavie Enterprise Centre, Ellangowan Court, Milngavie, G62 8PH attended on behalf of the Applicant.

The Respondent did not attend the Tribunal and no written representations had been received.

Preliminary Matters

The Housing and Property Chamber case worker reported by email to the Legal Member 30 mins before the hearing that the Respondent could not attend as his partner was in hospital. No written request or representations had been sent. There was no request for a postponement. The Applicant's representatives advised that the Respondent lives at the property on his own and his partner does not reside there. They sought that the hearing proceed and the Legal Member in the absence on a postponement request or representations in writing proceeding with the hearing having regard to the overriding objective in term of Rule 1 of the Procedure Rules.

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") granted an Eviction Order against the Respondents under section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016.

Matters Arising

The Tribunal clarified that the evidence lodged confirmed the last full payment of rent made by the Respondent was in September 2019. The rental payment per month was £650. As at the date of the Application the rent due to the Applicant was £1950. It was confirmed at the Hearing that the rent due to the Applicant by the Respondent was as at 15th February 2020, £3740. The tenancy agreement for the property commenced on 16th February 2019.

The Tribunal confirmed with the Applicant's representative what knowledge if any he had of any entitlement to any relevant benefit. It was confirmed that the Respondents had been entitled to benefits in the past but had also indicated that there was employment at some point and having lost employment new employment had been obtained. To their knowledge however the Respondent had recently lost this new employment.

The Applicant's representatives confirmed the Applicant sought grant of an order under section 51(1) of the 2016 on the grounds of rent arrears as they were of the view the Respondent was not in a position to meet the rental amount or pay his arrears. It was noted the relevant notice in terms of Section 50 (1)(a) of the 2016 had been sent and proof of same was lodged in the Application. The Respondent had been served the application appropriately. The relevant notice to the Local Authority had been made with reference to same in the Application.

Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent had received notification of the proceedings and had not challenged same by written representations or attendance. Whilst a**

message had been received for non attendance no written representations had been made to seek a postponement or setting out any relevant issues regarding the CMD. The Tribunal considered in terms of the overriding objective that the hearing could proceed and a decision be made.

2. The Applicant sought an Order for Eviction on the grounds of rent arrears.
3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property.
4. The Tribunal was satisfied that the Respondent was in terms of Schedule 3, Part 3 Ground 12 of the 2016 Act at the beginning of the day the Tribunal first considered the application for an Eviction Order on its merits in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rents under the tenancy on that day and has been in arrears of any amount for a continuous period of up to 3 or more consecutive months.
5. Further the Tribunal was satisfied on a balance of probabilities and on the evidence before it that the said arrears are not wholly or partly due to delay or failure of payment of the relevant benefit. It was noted the arrears were substantial and have occurred throughout the tenancy which commenced on 16th February 2019.
6. The Tribunal found that the requirements of Ground 12 of Schedule 3 to the Act had been met.
7. Further the Tribunal was satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period.
8. The Tribunal noted the Local Authority under the 2016 had been notified.
9. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted 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.

Karen Kirk

Legal Member/Chair

17/2/20

Date