



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) Act 2016 (“the Act”)

Chamber Ref: FTS/HPC/EV/21/1198

Re: Property at 13 Winton Avenue, Kilwinning, KA13 6LH (“the Property”)

Parties:

C&A Property Ventures Limited, 71-75 Shelton Street, London, WC2H 9JQ (“the Applicants”)

Miss Joanne Potts, 13 Winton Avenue, Kilwinning, KA13 6LH (“the Respondent”)

Tribunal Members:

David Preston (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it was reasonable to grant an Order for Eviction under ground 12 of Schedule 3 to the Act

Background:

1. By application dated 19 May 2021 the applicants applied for an order for eviction and possession of the property on the basis of Ground 12 of Schedule 3 to the Act.
2. The papers before the tribunal comprised:
 - a. Private Residential Tenancy Agreement dated 8 January 2020;
 - b. Notice to Leave dated 9 October 2020;
 - c. Certificate of Service dated 9 October 2020;
 - d. Notice under section 11 of the Homelessness etc (Scotland) Act 2003;
 - e. Rent statement covering the period 7 February 2020 to 7 July 2021 showing arrears of rent to that date amounting to £3646.35;
 - f. Pre-application Protocol Letter dated 8 April 2021

3. By Decision dated 23 June 2021, a Convener of HPC having delegated power for the purpose, referred the application to the tribunal. A letter of Intimation dated 25 June 2021 and Notice of the Case Management Discussion (CMD) to be held 4 August 2021 at 14.00 by telephone conference call together with the case papers was served on the tenant by Sheriff Officers on 28 June 2021. The tribunal was provided with a copy of the Sheriff Officer's Certificate of Citation of that date.

Case Management Discussion

4. Ms Nicola Caldwell, Accredited Paralegal attended on behalf of the applicants. The respondent neither appeared nor was represented.
5. The tribunal was satisfied that notice of the CMD had been duly served on the respondent together with a full set of papers relating to the application and she had chosen neither to attend nor make representations. It was content to proceed in her absence. The tribunal was satisfied that due notice had been given to the respondent to which she had failed to respond.
6. Ms Caldwell referred the tribunal to the statutory notices and other documents which had been served by the applicants on the respondent and to the updated rent statement which showed that at the date of the application the arrears of rent amounted to £2796.35 and at today's date amounted to £3646.35. The arrears therefore amounted to a sum equal to or greater than the amount which would be payable as one month's rent under the tenancy agreement and that the arrears had persisted for three or more consecutive months. Accordingly, she submitted that the terms of Ground 12 of Schedule 3 to the Act were established and moved the tribunal to grant an Order for eviction.
7. By way of background Ms Caldwell advised that the respondent had been accepted by the applicants under a rent deposit guarantee scheme operated by the local authority under which payments of rent were guaranteed until July 2020, which they were happy to accept to support the respondent in her situation. However, following conclusion of that scheme, further arrears had accrued.
8. Ms Caldwell understood that the tenant was a single mother with an eight-year-old son but pointed to the fact that no effort had been made by her to make payments towards the arrears and no contact had been made with applicants, despite efforts to engage with her.
9. Ms Caldwell said that the respondent had refused access to the applicants for the purpose of carrying out inspections of the property and that a Right of Entry application had been necessary. The applicants believe that the property is not being properly looked after or maintained by the respondent. Further the applicants are attempting to re-finance the property, but the respondent has consistently denied access to a valuer for that purpose. She referred the tribunal to the Protocol Letter dated 8 April 2021 and advised that the applicants had written to the respondent in similar terms on a monthly basis but without any response. For these reasons she submitted that it was reasonable for an eviction Order to be granted.

Reasons for Decision:

10. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, and in the absence of the respondent it was able to determine the application at the CMD.
11. The tribunal accepted the information in the file and as provided by Ms Caldwell and accepted her submissions in relation to reasonableness. It was satisfied that due process had been followed by the applicants and that in the circumstances it was reasonable that the order for eviction be granted.

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.

D. P

4 August 2021