



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

Chamber Ref: FTS/HPC/EV/21/0049

Re: Property at 6H Belgrave Mansions, Aberdeen, AB25 2NS (“the Property”)

Parties:

Ms Sue Chappell, c/o 207-211 Rosemount Place, Aberdeen (“the Applicant”)

Mr Daniel Logan, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Jane Heppenstall (Ordinary 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 7 January 2021 the Applicant’s representatives Gilson Gray LLP, Solicitors, Edinburgh applied to the Tribunal for an order for the eviction of the Respondent from the property as a result of alleged rent arrears. The Applicant’s representatives submitted a copy of the tenancy agreement copy rent statements, email and Notice to Leave and Section 11 Notice in support of the application.
2. By Notice of Acceptance dated 20 January 2021 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was attempted to be served on the Respondent by Sheriff Officers on 28 January 2021 however it was reported that the Respondent had vacated the property prior to Christmas 2020. Arrangements were made for service of the application on the Respondent by way of advertisement on the

Housing and Property Chamber Website. A Certificate of Advertisement dated 23 March 2021 was produced to the Tribunal confirming the application had been advertised from 15 February 2021 until 23 March 2021.

The Case Management Discussion

4. A CMD was held by teleconference on 23 March 2021. The Applicant was represented by Mr Scott Runciman of the Applicant's representatives. The Respondent did not attend nor was he represented. The Tribunal being satisfied that proper intimation having been given by way of advertisement on the Housing and Property Chamber website determined to proceed in the Respondent's absence.
5. The Tribunal noted that the Respondent had been served with a Notice to Leave by email on 22 April 2020 and that the earliest date for making an application to the Tribunal had been stated to be 27 October 2020. The Tribunal also noted that the ground for eviction was Ground 12 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act") namely that the Respondent had been in rent arrears for three or more consecutive months.
6. The Tribunal noted that at the date of service of the Notice to Leave the arrears of rent amounted to £3504.04. The Tribunal also noted that the current rent due amounted to £7517.33.
7. The Tribunal noted that a Section 11 Notice had been sent to the local authority by the Applicant's representatives on 7 January 2021.
8. The Tribunal queried with Mr Runciman whether the pre-action requirements in terms of the Coronavirus (Scotland) Act 2020 had been met prior to the raising of the proceedings. Mr Runciman submitted that as the rent arrears had accrued prior to 27 May 2020 it was not necessary for the Applicant to comply with the pre-action requirements although in any event there had been correspondence not submitted between the Applicant's letting agents and the Respondent that did provide the Respondent with information on where he could obtain advice and on proposals for payment of the debt. Mr Runciman went on to say that from about August 2020 the Respondent had stopped engaging with the letting agents and no further payments had been made. Mr Runciman pointed out that although it appeared from the Sheriff Officer's report that the Respondent had vacated the property prior to Christmas 2020 he had never contacted his office or the Letting Agents nor had he returned the keys. Mr Runciman submitted that in all the circumstances it was reasonable to grant the order sought.

9. In response to a query from the Tribunal Mr Runciman confirmed that although the application form stated that the Applicant had complied with the pre-action requirements that was intended to convey that in fact it was not necessary for the reasons given and because of the correspondence that had passed between the letting agents and the Respondent.
10. The Tribunal queried if the additional payments made by the Respondent in June and August 2020 reflected some repayment agreement between the parties. Mr Runciman advised the Tribunal that he had no information in this regard.

Findings in Fact

11. The parties entered into a Private Tenancy Agreement that commenced on 2 November 2018 at a rent of £650.00 per calendar month.
12. The Respondent removed himself from the property prior to Christmas 2020 but did not return the keys to the property.
13. The Respondent has accrued rent due amounting to £7517.33.
14. The Respondent was served with a valid Notice to Leave dated 22 April 2020 under ground 12 of Schedule 3 of the 2016 Act.
15. The Applicant's representatives sent a Section 11 notice to the local authority by email on 7 January 2021.

Reasons for Decision

16. The Tribunal was satisfied from the documents produced and the oral submissions that the parties entered into a Private Residential Tenancy agreement that commenced on 2 November 2018 at a rent of £650.00 per calendar month. The Tribunal was further satisfied that the Respondent was due rent amounting to £7517.33 as at 10 March 2021.
17. The Tribunal was satisfied that the Notice to Leave was properly served on the Respondent by email on 22 April 2020 and that proper notice was given.
18. The Tribunal accepted that the rent arrears had arisen prior to 27 May 2020 when the pre-action requirements due to the Covid 19 pandemic came into force and therefore it was not necessary for the Applicant to comply with the legislation in this regard. In considering whether it was reasonable to grant the order sought the Tribunal took account of the fact that the Respondent had apparently vacated the property prior to Christmas 2020.
19. The Tribunal was satisfied that it had sufficient information before it to allow it to make a decision without a hearing and taking account of all the facts and

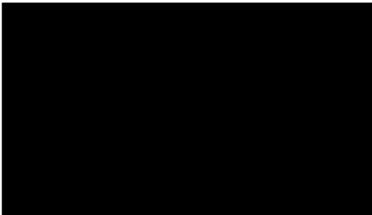
circumstances the Tribunal was satisfied that the terms of Ground 12 of Schedule 3 of the 2016 Act had been met and that it was reasonable to grant the order sought.

Decision

20. The Tribunal finds the Applicant entitled to an order for the eviction of the Respondent from the property.

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**

Date 23 March 2021