



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.

Reference number: FTS/HPC/EV/19/3594

Date Order was granted 20 February 2020

Property: 61 Spalding Crescent, Dalkeith, Midlothian EH22 2AX

Parties:

Mohammed Yasir Arafat Bin Abbas, residing at 31A North Bridge Street, Bathgate, West Lothian EH48 4PJ ("the Applicant")

John Davidson and Naimh Grealis residing together at 61 Spalding Crescent, Dalkeith, Midlothian EH22 2AX ("the Respondents")

Tribunal Members:

Paul Doyle (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016.

Background

The Applicant sought recovery of possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 ("The 2016 Act"). The Applicant had lodged with the Tribunal Form E. The documents produced were a Private residential tenancy agreement dated 3 September 2018, a notice to leave dated 2 October 2019, and a Notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 served on 6 November 2019. A copy title sheet was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place before the Tribunal at 2.00pm on 20 February 2020 at Riverside House, Gorgie Road, Edinburgh. The Applicant was represented by Ms K Donnelly of Bannatyne Kirkwood France, solicitors. The respondents were present but were not represented. The time date and place of the case management discussion had been intimated to both respondents by Sheriff Officers on 16 January 2020.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property dated 3 September 2018. In terms of clause 8 of the tenancy agreement the respondents agreed to pay rental at the rate of £675.00 per month.
2. The respondents have not paid rental since 3 May 2019. At the date of application there were arrears of rent totalling £2,275.00. At 7 January 2020 the rent arrears totalled £3,625.00. At today's date the arrears total £4,000.
3. On 2 October 2019 the applicant served a notice to leave on each respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 6 November 2019 the applicant submitted his application to the tribunal.
4. The Applicant sought recovery of possession of the Property in terms Ground 12 of part 3 of schedule 3 to the 2016 Act.
5. The monthly rent is £675.00. The respondents only made small, incomplete, payments of rental since 3 May 2019, so that at the date of application there were 6 months arrears of rental. At today's date rental payments are 10 months in arrears.
6. The respondents came to the hearing and admitted that the amount of arrears has now increased to £4,000. They have taken advice and accept that they cannot oppose the application for eviction. They have been waiting for today so that they can apply to the local authority to be rehoused. They offer no resistance to the application

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in in terms Ground 12 of part 3 of schedule 3 to the 2016 Act is established. The respondents offer no stateable defence to the application. For these reasons, the Tribunal determined to grant an Order for possession.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession.

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.

P.Doyle

Legal Member



20 February 2020