



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/19/3779

Re: Property at Flat 2/1, 8 Brachelston Street, Greenock, PA16 9AD (“the Property”)

Parties:

Mr Christopher Bradley, 66 Flay way, Greenock, PA15 2WJ (“the Applicant”)

Ms Andrea Watson, Flat 2/1, 8 Brachelston Street, Greenock, PA16 9AD (“the Respondent”)

**Tribunal Member:
George Clark (Legal Member)**

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and issued an Eviction Order against the Respondent.

Background

By application, received by the Tribunal on 26 November 2019, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) Scotland Act 2016 (“the Act”). The Ground relied on was Ground 12 of Schedule 3 to the Act, namely that the rent had been in arrears for three consecutive months and the arrears exceeded one month’s rent.

The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 8 March 2019 at a rent of £350 per month, payable in arrears and a Rent Statement showing arrears as at 5 November 2019 of £1,040. The Statement showed that the rent had been continuously in arrears since April 2019. On 21 January 2020, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 11 February 2019. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held at Greenock Sheriff Court on the morning of 25 February 2020. The Applicant was represented by Mr Campbell Gisbey of Homefinders Inverclyde, Greenock. The Respondent was not present or represented. The Applicant's representative told the Tribunal that, whilst there had been a payment received since the date of the application by way of Universal Credit, the arrears still stood at £1,040. He asked the Tribunal to grant the application without a Hearing.

Reasons for Decision

Regulation 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

Section 51 of the Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the Eviction Grounds named in Schedule 3 to the Act applies.

Ground 12 of Schedule 3 to the Act provides that it is an Eviction Ground that the tenant has been in rent arrears for three or more consecutive months and that the Tribunal must find that Ground 3 applies if, at the beginning of the day on which the Tribunal first considers the application for an Eviction Order on its merits, the tenant is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, and the Tribunal is satisfied that the tenant's being in arrears over that period is not wholly or partly a consequence of a delay or failure in payment of a relevant benefit.

The Tribunal was satisfied that the arrears stood at more than one month's rent and that the rent had been in arrears for more than three consecutive months prior to the date of the Case Management Discussion and that no evidence had been led to suggest that the arrears were in any way a consequence of a delay or failure in the payment of a relevant benefit. Accordingly, the requirements of Ground 12 of Schedule 3 to the Act had been met and the Tribunal was bound to issue an Eviction Order against the Respondent.

Decision

The Tribunal determined that the application should be decided without a Hearing and issued 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.

George Clark

Legal Member/Chair

25 February 2020

Date