



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/19/0496

Re: Property at 1/1 161 Kirkintilloch Road, Bishopbriggs, G64 2LS (“the Property”)

Parties:

Ms Kwai F Li, 75 St Marys Road, Bishopbriggs, G64 2EF (“the Applicant”)

Mrs Sarah Dempster, 1/1 161 Kirkintilloch Road, Bishopbriggs, G64 2LS (“the Respondent”)

Tribunal Members:

John McHugh (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 refused.

Background

The Applicant is the landlord and the Respondent the tenant under a private rented tenancy agreement in respect of the Property dated 9 August 2018.

In terms of the tenancy agreement rent is payable at the rate of £625 per month in advance.

The Case Management Discussion

A Case Management Discussion took place at the Glasgow Tribunals Centre on 3 May 2019. The Applicant was represented by Heather McBride, the Applicant’s letting agent. The Respondent did not appear and was not represented. Mrs McBride confirmed that there had been no contact from the tenant.

Rent arrears had increased since the bringing of the application. Some housing benefit had been received recently but the arrears remained higher than the amount contained in the application.

Findings in Fact

The Applicant is the landlord and the Respondent the tenant under a private rented tenancy agreement in respect of the Property dated 9 August 2018.

In terms of the tenancy agreement, rent is payable at the rate of £625 per month in advance.

Rent was unpaid when due on 9 December 2018 and 9 January and 9 February 2019.

A housing benefit payment of £504.96 was received on 30 January 2019 leading to a balance unpaid of £1370.04.

The Applicant served a Notice to Leave referring to Eviction Ground 11 on 21 December 2018.

At 21 December 2018 the rent arrears were only one month's rent of £625 and there had not been three consecutive months' arrears.

Decision

The Application is refused.

Reasons for Decision

It has been established that rent in the total of £1370.04 due by the Respondent under the tenancy agreement is unpaid. However, Ground 11 upon which the Notice to Leave and the application proceed, is concerned only with breaches of the tenancy agreement concerned with matters other than rent. There is no complaint about a breach of the tenancy agreement other than in respect of non-payment of rent and so the application falls to be refused.

It would appear that as at the date of service of the Notice the landlord would not have been able to rely upon Ground 12 (which relates to the non-payment of rent). The Applicant would however appear to be entitled to serve a fresh Notice and bring a fresh application in relation to Ground 12 if it wishes to do so.

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.

J McHugh

John McHugh, Legal Member/Chair

3 May 2019

Date