



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/22/1470

Re: Property at 8 Glencairn Road, Paisley, PA3 4LR (“the Property”)

Parties:

O'Brien Properties Limited, O'Brien Properties, 4-5 Gleneagles Court, Brighton Road, Crawley (“the Applicant”)

Miss Amanda Hosie, Mr Grant Urie, 8 Glencairn Road, Paisley, PA3 4LR (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 17th May 2022. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to ground 12 of the Private Housing (Tenancies) Act 2016.
2. The application included:-
 - a. Copy Scottish Government Model Private Residential Tenancy Agreement with commencement of tenancy being 17th July 2020;
 - b. Notice to Leave signed 14th September 2021 stating an application would not be submitted to the Tribunal before 17th March 2022;
 - c. Section 11 notice;
 - d. Rent statement from 6th July 2020 to 19th June 2022. This detailed the rent of £450 per month and arrears of £3740; and

- e. Copy email dated 14th September 2021 serving Notice to Leave upon the Respondent
3. On 8th August 2022, all parties were written to with the date for the Case Management Discussion (“CMD”) of 22nd September 2022 at 10am by teleconferencing. The letter also requested all written representations be submitted by 29th August 2022.
4. On 9th August 2022, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondents by letterbox service and first class post. This was evidenced by Certificate of Intimation dated 9th August 2022.
5. The case was conjoined with case FTS/HPC/CV/22/1471

The Case Management Discussion

6. A CMD was held on 22nd September 2022 at 10am by teleconferencing. The Applicant was not present but was represented by Mr Ian Troy, Pennylane Homes Renfrew. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondents did not make representations in advance of the hearing.
7. Mr Troy informed the Tribunal that the Respondent last paid on 8th April 2022 which was for £100 but that there have been no payments since. The arrears have increased to £5090. In May, Mr Troy contacted the DWP to get Universal Credit payments made directly to the Applicant. He was called by the First Named Respondent’s caseworker. He then followed this call up with an email but has heard nothing since and has received no direct payments. There have been no offers of payment. Mr Troy believes that the First Named Respondent is a full time mother and is not working. At the reference check point at the start of the tenancy it was noted that only the Second Named Respondent was working. The Second Named Respondent has left the Property.
8. Mr Troy said that a visit to the Property was undertaken in August 2022. The First Named Respondent was contacted in advance of the visit. It was presumed from this visit that the First Named Respondent had left the Property as there were very few items in the Property. There remained a sofa and two beds. One of the beds was an adult’s bed and one a child’s bed. The adult’s bed was covered with a sheet. There was no food in the kitchen cupboards. There was no TV. Mr Troy contacted the First Named Applicant by text message. She replied on 8th August 2022 and said that she was still living in the Property as she had nowhere else to go. A second visit was undertaken two weeks prior to the CMD. The Property was found to be in the exact same condition as it had been on the previous visit. The same sheet was still on the double bed. Mr Troy tried to contact the First Named Respondent by text message but she has not responded to these messages.

9. The Tribunal considered that the Applicant was entitled to the order as payments have not been made in terms of ground 12 and continue not to be made. There does not appear to be any issues of reasonableness preventing an order for eviction being granted. The Tribunal noted that there are changes due to occur with regard to evictions which may prevent him enforcing this order. This is still being drafted with the Scottish Government and the Tribunal has not yet been told how this will affect current eviction orders. Once the order is due to be issued, Mr Troy may wish to consider taking legal advice with regards to the legality of enforcing it.

Findings and reason for decision

10. A Private Rented Tenancy Agreement commenced 17th July 2022. The rent charge is £450 per month. The rent payments are due to be paid on 17th day of each month.
11. Arrears accrued to more than one months rent payment at the date of application and was more than three months rent payments at the date of the hearing.
12. There are no outstanding Universal Credit issues.
13. There are no issues of reasonableness that the Tribunal were aware of that would prevent an order for eviction being granted.
14. The current arrears are £5090. This is an increased amount than that detailed in the application.

Decision

15. The Tribunal found that ground 12 has been established and granted an order in favour of the Applicant.

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.



22nd September 2022

Legal Member/Chair

Date