



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/22/1316

Re: Property at Flat 3/1, 21 Broomlands Street, Paisley, PA1 2LT (“the Property”)

Parties:

Mrs Lucia Watson, 749 Anniesland Road, Glasgow, G14 0XY (“the Applicant”)

Mr Ryan Black, Flat 3/1, 21 Broomlands Street, Paisley, PA1 2LT (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Mary Lyden (Ordinary Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (hereinafter referred to as “the 2016 Act”) for an Eviction Order. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made. The CMD took place by teleconference.

Decision (in absence)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondent under section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016.

Attendance and Representation

The Applicant was present and represented by Rukhsana Ahmed. Fingertip Lettings Ltd, 30 Palmer Avenue, Glasgow, G13 2LL. The Applicant’s husband, Ian Watson was also in attendance.

The Respondent did not attend the Tribunal and no written representations had been received. Service of the Application had been affected appropriately by Sheriff Officer

on 26th July 2022. The Applicant had had no contact from the Respondent since December 2021.

Preliminary Matters

The Applicant's representative communicated that she had been visiting the property monthly but had had no contact with the Respondent. The Applicant required to carry out repairs and had sought with right of entry with sheriff officers with no response,. Letters and emails had gone un replied.

The Applicant's representative said a welfare check was carried out by police into the Respondent in February 2022 and the police advised they had got in contact with the Respondent by mobile. The police said the Respondent would get in contact and he never did

The Applicant's representative referred to recent documentation lodged on 22nd August 2022 with an updated rent statement which showed the rent arrears for the property were £5520 as at 1st September 2022

There were no preliminary matters.

Matters Arising

The Applicant's representative confirmed the Applicant sought an order for Eviction and to secure the property. The Applicant sought to regain access to her property. The Applicant's representative said the Applicant and her husband had lost significant income on the property and they were both retired. The property was a source of income and had a secured mortgage. The priority was to seek possession of the property and the income it provides

In regards the Respondent's circumstances the Applicant's representative said he is a hairdresser and remains working from what the Applicant is aware of. The Applicant's representative said that the Respondent sought a new PRT which started in September 2021. However the Respondent had been residing in the property as a joint tenant with her now ex-partner from February 2020. The Respondent has no dependents, vulnerabilities or disability known to the Applicant.

Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent had received notification of the proceedings by Sheriff Officer and had not challenged same by written representations or attendance.**
- 2. The Applicant sought an Order for Eviction on the grounds of rent arrears, Ground 12.**
- 3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property as a copy title was lodged with the Application.**

4. There was a PRT in place between parties dated 18th September 2021. A Notice to Leave was sent to the Respondent on 1st April 2022. Rent per calendar month due was £460.
5. The Tribunal was satisfied on balance that the Respondent was in terms of Schedule 3, Part 3 Ground 12 of the 2016 Act at the beginning of the day the Tribunal first considered the application for an Eviction Order on its merits in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rents under the tenancy on that day and has been in arrears of any amount for a continuous period of up to 3 or more consecutive months.
6. On 1st September 2022 rent arrears for the property due by the Respondent amounted to £5520..
7. Further the Tribunal was satisfied on a balance of probabilities that the said arrears are not wholly or partly due to delay or failure of payment of the relevant benefit.
8. The Tribunal found that the requirements of Ground 12 of Schedule 3 to the Act had been met.
9. Further the Tribunal was satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period.
10. The Tribunal noted the Respondent has resided as a joint tenant with an ex partner in the property since February 2020 but became wholly residence for the PRT under this new PRT dated September 2021.
11. The Applicants had gone to significant lengths to regain contact with the Respondent, ensure his welfare and resolve matters without success.
12. The Tribunal noted the Local Authority under the 2016 had been notified.
13. On the information given to the Tribunal by the Applicant's Representative which was credible the Respondent had no dependents or vulnerabilities and was working and the Tribunal found an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020.
14. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.

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.

02/09/22

Legal Member/Chair

Date

