



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/21/0781

Re: Property at 1 Spinnaker Way, Dalgety Bay, Dunfermline, Fife, KY11 9GH (“the Property”)

Parties:

Ms Jill Wilkie, 21 Glamis Gardens, Dalgety bay, Fife, KY11 9TD (“the Applicant”)

Ms Gail Porte, 1 Spinnaker Way, Dalgety Bay, Dunfermline, Fife, KY11 9GH (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:

Background

The Applicant seeks an Eviction Order in respect of Grounds 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. The Application was accompanied by a Notice to Leave which was emailed to the Respondent on 5 August 2020 which expired on 7 February 2021 and which confirmed that proceedings for recovery of the Property would not be commenced before 8 February 2021. The Applicant also supplied evidence of having complied with s 11 of the Homelessness etc. (Scotland) Act 2003 and evidence in form of a detailed rent statement in support of how the Grounds of Eviction

were met. Reference was also made as to how it was said the Applicant had complied with The Rent Arrears Pre- Action Requirements (Coronavirus) (Scotland) Regulations 2020.

The Case Management Discussion

The Application called by conference call at 10 am on 1 June 2021 alongside the related Application with reference FTS/HPC/CV/21/0805 which related to a Payment Order in respect of the rent arrears referred to in this Application. The Applicant was represented on the phone by Mr Miller, trainee solicitor with McEwan Fraser Legal. The Respondent was personally present on the phone.

The Respondent confirmed that the amount of rent arrears was not in dispute and neither was it contested that Grounds 12 was established. The Respondent did however appear to oppose the granting of the Application on the basis that she wanted more time to organise finding alternative accommodation. The Tribunal invited each party to address the Tribunal on the reasonableness or otherwise of granting the order. The Tribunal also carefully questioned both parties on other matters which the Tribunal considered necessary to properly assess whether it would be reasonable to grant any order. Having considered the Application and accompanying documentation and having heard from the parties, the Tribunal made the following findings in fact.

Findings in Fact

- I. *There was a tenancy at the Property between the parties which commenced on 21 June 2019;*
- II. *The Applicant is the landlord and the Respondent is the tenant;*
- III. *The contractual monthly rent due is £750.00 per month;*
- IV. *The Respondent very quickly fell into rent arrears and has almost never been up to date with her payments from the start of the tenancy;*
- V. *The Respondent cannot afford the Property and there is no real near-term prospect of her being able to pay the monthly rent due or making any substantial payments towards the arrears;*
- VI. *The Respondent lives alone in the Property and recognises that she requires to move to a smaller, more affordable property;*
- VII. *The Applicant validly served a Notice to Leave on the Respondent on 5 August 2020. At that time the Respondent had been in arrears of rent for more than three months and at least one month's worth of rent was overdue on that date;*

- VIII. *The Applicant has complied with the obligations incumbent on her under The Rent Arrears Pre- Action Requirements (Coronavirus) (Scotland) Regulations 2020;*
- IX. *As at today's date, the Respondent is in rent arrears of at least one month's worth of rent and has been in arrears of rent for in excess of three months;*
- X. *Grounds 12 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act is engaged;*
- XI. *The Tribunal is satisfied that it is reasonable to grant the Eviction Order.*

Reasons for Decision

Having made the above findings in fact, the Tribunal decided to grant the Application and make an Eviction Order.

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.

Andrew McLaughlin

01 June 2021

Legal Member/Chair

Date