



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/22/1376

Re: Property at 5 Ardmore Road, Port Glasgow, PA14 5RY (“the Property”)

Parties:

Property Management Options, 6 Robert Street, Port Glasgow, PA14 5NU (“the Applicant”)

Ms Isobel Stevenson, 5 Ardmore Road, Port Glasgow, PA14 5RY (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 12 of schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

- Background
- 1. An application was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought a repossession order against the Respondent on the basis of rent arrears accrued by the Respondent under a private residential tenancy, being Ground 12 under Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”).
- Case Management Discussion

2. A Case Management Discussion (“CMD”) took place on 5 August 2022. The Applicant was represented by Miss Wilson of Patten & Prentice Solicitors. The Respondent was represented by Miss McHugh of Brown & Co Solicitors.
3. The Applicant’s representative moved for the Order to be granted as sought. The parties had entered into a Private Residential Tenancy Agreement (“the Agreement”), which commenced 7 December 2020. The Respondent had fallen into arrears of rent in April 2021. A Notice to Leave had been served on the Respondent on the basis of Ground 12 of Schedule 3 to the 2016 Act, on 6 April 2022 by Sheriff Officer. At the time of service of the Notice to Leave, the arrears stood at £6,240. At the time of raising the application the arrears increased to £6,720. On 17 May 2022 the Respondent had paid a lump sum of £6,480 to reduce the arrears, however nothing further had been paid since then. The arrears currently stood at £1,680 with a monthly rent of £480. The Applicant had no confidence that the Respondent would meet the ongoing rent and that the arrears would simply continue to increase again.
4. The Respondent’s representative submitted that she opposed the order on the grounds that it would not be reasonable to evict. The Respondent had made a substantial payment to arrears to reduce the balance. She had thereafter proposed a payment arrangement of rent plus £25 per week to the arrears, but this had been refused by the Applicant. She submitted that this refusal was not reasonable, taking into account the Respondent’s circumstances. The Respondent is almost 60 years old and lives alone. She has substantial health issues. She suffers from anxiety and depression, and has had suicidal thoughts in the past. These issues make it difficult for her to engage with services consistently. She previously had her adult son living with her but he too suffered from poor mental health and drug addiction, and he no longer resides with her. That period had been chaotic. She has increased her working hours from 20 hours per week to full time working to ensure that she can meet her ongoing rent and make payments to her arrears. It was submitted that the Respondent has made a reasonable payment proposal which has been refused by the Applicant. In all the circumstances it would not be reasonable to grant the order. The Respondent’s representative moved for a Hearing to be fixed for evidence to be led on the question of reasonableness.
 - The Hearing
5. A Hearing took place on 9 December 2022. The Applicant was represented by Mr Caldwell of Patten & Prentice Solicitors. The Respondent was represented by Ms Fidelo of Brown & Co Solicitors.
6. The parties’ representatives confirmed that the parties had reached an agreement. The Respondent consents to a repossession order being granted against her on the basis that the Applicant provides an undertaking to the Tribunal that the order will not be enforced by the Applicant for so long as the Respondent maintains payments under the repayment arrangement agreed between the parties. The current arrears due are £1333.70. The terms of the

payment arrangement are that in December 2022, the Respondent must pay the due monthly rent, being £480. Thereafter, commencing January 2023 and in each month thereafter, the Respondent must pay the due monthly rent (currently £480) plus £100 per month towards arrears. The Applicant undertook not to enforce the repossession order so long as the Respondent was adhering to said payment arrangement.

- Decision

7. The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 12 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016. The Order must not be enforced by the Applicant for so long as the Respondent maintains payments under the repayment arrangement agreed between the parties as set out in paragraph 6 above.

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.

F watson

Legal Member/Chair

Date: 9 December 2022