



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 (“The Act”)

Chamber Ref: FTS/HPC/EV/22/1479

Re: Property at 35 Brankholm Gardens, Hamilton, ML3 9FH (“the Property”)

Parties:

Mrs Lindsay Backer, Mr Allyn Backer, 1 Ness Terrace, Hamilton, ML3 8UJ (“the Applicant”)

Mr Neil Wright, 35 Brankholm Gardens, Hamilton, ML3 9FH (“the Respondent”)

Tribunal Members:

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

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made an Eviction Order.

Background

The Application seeks an Eviction Order on the basis of Ground 12 of Schedule 3 of the Act being established and it being reasonable that an Eviction Order is granted. A separate Application for a Payment Order against the Respondent had been determined on 13 September 2022 by a differently constituted Tribunal and a Payment Order for the sum of £3,360.00 had been granted. Whilst it was unusual that this other Application was not conjoined with the Application before the Tribunal today, it did not preclude this Application proceeding on its own merits.

Case Management Discussion

The Application called for a Case Management Discussion (CMD) by conference call at 2 pm on 14 September 2022. The Applicants were represented on the call by Ms Crawford of Harper MacLeod LLP. There was no appearance by or on behalf of the Respondent. The Application and information about the CMD and how to join the conference call had been competently served on the Respondent by Sheriff Officers. Accordingly, the Tribunal decided to proceed in the absence of the Respondent.

Having considered the Application and having heard from Ms Crawford, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The parties entered into a tenancy whereby the Applicants let the Property to the Respondent on a Private Residential Tenancy Agreement that commenced on 1 November 2021;*
- II. *The contractual monthly rent was £560.00;*
- III. *The Respondent has fallen into rent arrears and has made no rental payments at all since November 2021;*
- IV. *The Applicants competently served a Notice to Leave on the Respondent on 2 April 2022 in terms of Ground 12 of Schedule 3 of the Act which was established due to the level of rent arrears accrued by the Respondent as at that date;*
- V. *Ground 12 similarly remains established as at today's date due to the level of rent arrears lawfully due by the Respondent to the Applicants and the period over which those rent arrears have subsisted;*
- VI. *The Applicant has complied with The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 having sent letters by recorded delivery;*
- VII. *The Respondent has failed to engage with the Applicants regarding the rent arrears or offer any explanation for non-payment;*
- VIII. *The Respondent is thought to live alone and was in employment until August 2022 and there is nothing apparent that might explain why the Respondent has allowed such high levels of rent arrears to accrue;*
- IX. *As at today's date, the sum of £6,160.00 is lawfully due as rent by the Respondent to the Applicants but remains unpaid. This has placed the applicants under considerable financial pressure as they rent out only this one property on which they have a mortgage;*

X. *The Applicants have complied with s 11 of the Homelessness (etc) (Scotland) Act 2003;*

XI. *It is reasonable that an Eviction Order is granted;*

Reasons for Decision

Having made the above findings in fact, the Tribunal unanimously decided to grant the Application.

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

Legal Member/Chair

14 September 2022

Date