



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/22/1630

Re: Property at 14 Green Street, Flat C, Ayr, KA8 8AD (“the Property”)

Parties:

Mr William Kennedy, 7 Waggon Road, Ayr, KA8 8DW (“the Applicant”)

Miss Lauren Shennan, Mr Ian Turnbull, 14 Green Street, Flat C, Ayr, KA8 8AD (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Mike Scott (Ordinary Member)

Decision

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

Background

The Applicant seeks an Eviction Order on the basis of Ground 12 of Schedule 3 of the Act. The Application is accompanied by the relevant Notice to Leave and proof of service, the tenancy agreement, a rent statement, proof of compliance with *The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020* and evidence of compliance with s 11 of the Homelessness (Etc) (Scotland) Act 2003.

The Case Management Discussion

The Application called for a Case Management Discussion (CMD) by conference call at 2 pm on 16 September 2022. The Applicant was represented by Mr Alan Hall of Homesure Portfolio Management. The Second Respondent, Mr Ian Turnbull, was present on the call and confirmed that Lauren Shennan, his partner, was aware of the Application but was at work so would not be in attendance.

The Tribunal began by considering whether there were any preliminary matters. After noting that there was none, the Tribunal proceeded to hear Mr Turnbull's position in response to the Application. Mr Turnbull accepted that he had no defence to the Application and that the rent arrears relied upon in the Application were indeed lawfully due but unpaid. Mr Turnbull accepted that the Respondents had also received the Notices to Leave and had failed to vacate the Property.

Mr Turnbull made reference to a recent public pronouncement on behalf of the Scottish Government that suggested that there might soon be a prohibition on evictions. Beyond that Mr Turnbull explained, when asked, that he was currently self-employed and operated a cleaning business having sometime previously been employed by Network Rail. Mr Turnbull confirmed that Ms Shennan was also currently engaged in self-employment. There are no other members of the household.

The Tribunal specifically asked Mr Turnbull to put forward any reason as to why it might not be considered reasonable for an Eviction Order to be granted. Mr Turnbull could not put forward any such reason beyond a vague reference to it "*being a tough time for everyone*".

The Tribunal found Mr Turnbull's position as being rather aloof and somewhat smug. He seemed to offer no explanation at all for why he had not paid a single penny towards his rent for 15 months and appeared perfectly comfortable offering no explanation at all for this. Mr Turnbull instead was clearly hoping that legislative changes would prolong his stay in the Property but made no indication that any further rental payments would be forthcoming in the meantime.

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

Findings in Fact

- I. The Applicant let the Property to the Respondents by Private Residential Tenancy which commenced on 24 July 2020;*
- II. The contractual monthly rent was £440.00;*
- III. The Respondents soon ceased making monthly rental payments and began to accrue significant arrears of rent which were lawfully due to the Applicant;*
- IV. On 25 November 2021 the Applicant served a Notice to Leave separately on both Respondents calling upon them to vacate the Property;*
- V. This Notice to Leave was based on ground 12 of Schedule 3 of the Act and that ground was established at the time both of service of the Notice to Leave itself and also as at today's date;*
- VI. The Notice to Leave provided the Respondents with the correct period of notice before any application could properly be brought to this Tribunal;*

- VII. *There are currently rent arrears of £5,720.00;*
- VIII. *The Applicant has complied with the terms of The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;*
- IX. *The Respondents have failed to make any effort to engage with the Applicant or put forward any proposals for repayment or even offer any explanation for their consistent non-payment;*
- X. *The Applicant has 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 and made 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.

Legal Member/Chair

Date: 16th September 2022