

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/22/1914

Re: Property at 40f Well Street, Paisley, PA1 2PQ (“the Property”)

Parties:

Mr David Williams, 7 Glencart Grove, Kilbarchan, Johnstone, PA10 2DH (“the Applicant”)

Miss Carly Burns, 40f Well Street, Paisley, PA1 2PQ (“the Respondent”)

Tribunal Members:

Gillian Buchanan (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

At the Case Management Discussion (“CMD”), which took place by telephone conference on 15 September 2022, the Applicant was represented by Ms Sarah Carrell of Cairn Letting. Ms Rebecca King of Cairn Letting was also in attendance to provide Ms Carrell with administrative support. The Applicant and the Respondent were not in attendance.

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

Background

The Tribunal noted the following background:-

- i. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement (“the PRT”) that commenced on 17 September 2018.
- ii. The rent payable in terms of the PRT is £550 per month payable monthly in advance.
- iii. At the outset of the PRT the Respondents paid a deposit of £650.
- iv. The rent arrears due as at the date of the application were £2,301.

- v. That on 14 December 2021, the Applicant per his Letting Agent served on the Respondent by email a Notice to Leave requiring the Respondents remove from the Property by 17 June 2022 on the basis that rent arrears had accrued over three consecutive months.
- vi. That on each of 12, 18 and 31 May and 10 and 16 June 2022 Applicant's Letting Agent wrote to the Respondent signposting the Respondent to sources of financial help and support.
- vii. That the Applicant has served on Renfrewshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The Case Management Discussion

At the CMD Miss Carrell for the Applicant made the following representations:-

- i. That the rent arrears currently due by the Respondent are £2,263.
- ii. That the deposit paid by the Respondent remains with Safe Deposit Scotland.
- iii. That ongoing rent is covered fully by Universal Credit payments made directly to the Applicants Letting Agent.
- iv. That with regard to the months of November 2021 to January 2022 when no payments were made, it is understood the Respondent ceased to be entitled to Housing Benefit which had been paid up to that point. A Universal Credit application was made around that time. The Respondent did not qualify for a Tenant Grant.
- v. That in addition to the payments made per the Rent Statement dated 16 June and in addition to the ongoing payment of rent, regular (albeit not monthly) Discretionary Housing Payments are made to reduce the arrears balance and £33.49 was paid in each of June, July and August 2022. No such payment has yet been received in September 2022.
- vi. That throughout the tenancy the Respondent has been in arrears of rent.
- vii. Previously, Miss Carrell introduced the Respondent to "Families First" an organisation that assists families with their affairs. They assisted the Respondent getting her financial affairs under control.
- viii. The Respondent does not engage with Miss Carrell in her attempts to meet with the Respondent to try to resolve the situation.
- ix. The Applicant works part-time as a gardener. During the winter the Applicant takes other part-time jobs, such as in Asda, to generate an income. He is concerned the rent might not keep coming in and that his mortgage will not be covered.
- x. The Applicant has 3 other let properties. Miss Carrell did not know the Applicant's mortgage in respect of the Property.
- xi. The Applicant seeks an eviction order.

Reasons for Decision

The Tribunal was not persuaded that it is reasonable, in the circumstances, to grant an eviction order.

The Respondent is a single parent with 3 children of primary school age. Since 1 February 2022, no further arrears have accrued as the Respondent's ongoing rent is now fully covered by Universal Credit payments received directly by the Applicant's Letting Agent. In addition, discretionary housing benefit payments are being regularly received reducing the historic arrears to £2,263, the lowest arrears figure due since January 2022.

There is no evidence before the Tribunal to suggest the Respondent's position will change such that the arrears will increase going forwards.

The Applicant is a commercial landlord owning the Property and three other let properties. The ongoing rent is being paid in full which has been the position since February 2022. The arrears are reducing.

Any prejudice to the Applicant is outweighed by the effect an eviction order would have upon the Respondent and her family.

Decision

The Applicant's application for an eviction order was refused.

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.

G Buchanan

Legal Member/Chair

15 September 2022
Date