



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/22/3384

Re: Property at 211 Taylor Street, Methil, Fife, KY8 3AY (“the Property”)

Parties:

Parker Housing LTD, Caledonian House, Links Road, Leven, Fife, KY8 4HS (“the Applicant”)

Miss Sindy Ridley, 211 Taylor Street, Methil, Fife, KY8 3AY (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence)

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

- 1. Grants an Eviction Order against the Respondent, and**
- 2. orders a delay of 2 weeks in normal the execution of the Order in terms of Rule 16A(d) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Amendment Regulations 2018**

Introduction

This Hearing was a Case Management Discussion (hereinafter referred to as a “CMD”) concerned an Application for an Eviction Order under the Private Housing (Tenancies) (Scotland) Act 2016. The purpose of the CMD being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision could be made. The hearing took place by teleconference.

- 1. Attendance and Representation.**

The Applicant was not present but represented by Charlotte Caird, Property Manager, Fife Properties, 9 Mitchell Street, Leven, Fife, KY8 4HJ. She was joined by her colleague Richard Cook.

The Respondent was not present or represented and she had not lodged written representations. The Tribunal served the Respondent by Sheriff Officer on 6th February 2023.

2. Preliminary Matters.

Given the Respondent was not present the Tribunal queried as to any contact between parties. The Applicant's representative said there had been contact with the Respondent on 3rd February 2023 where it was confirmed she remained in the property.

There were no other preliminary matters raised.

3. Case Management Discussion.

For the Applicant

The Applicant's representative sought an eviction order based on rent arrears, Ground 12 of schedule 3 of the 2016 Act. She said at the time of the application being lodged on 5th September 2022 the arrears for the property were £4005. Since then minimal payments had been received and the rent arrears for the property are currently as at the CMD date £5850. The Applicant's representative said that there had been no attempt by the Respondent to make payments to arrears and the Applicant continues to endure no income from the property.

The Applicant's representative said that she was aware of the pre-action protocol on rent arrears and when the Respondent first fell into arrears they started to provide assistance to her. She said they signposted the Respondent for additional financial help and also referred her to the Local Authority. The Local Authority had explained that the Respondent had been received a housing payment directly and that she had received a backdated sum. These had not been paid to the rent account the Applicant's representative explained.

The Applicant's representative then stated that the letting agency had applied directly for the housing payment to be made to them. They received one payment this way but then stopped. On enquiry the Applicant's representative said they were told that the Respondent had stopped the direct payment on the basis she had said she had moved property but this was not the case.

The Applicant's representative said that they work closely with local housing groups and charities who can set up voluntary arrears payment plans and can also apply for council grants. They had made contact with Fife Private Rental Solutions and had had some discussions with them for the Respondent and had also discussed matters with a local housing options officer.

The Applicant's representative said that the Applicant has around 52 rental properties. She said the Respondent has 4 children and the property is a 3 bedroom property. The Respondent had been working in a hotel chain but from December 2022 was no longer working there. The Applicant's representative said the Respondent had no known vulnerability or disability and that she has applied for alternative local authority housing.

1. Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion in the absence of the Respondent and to do so would be in the interests of the parties, in the interests of justice and would have regard to the Overriding objective. The Respondent had been served by Sheriff Officer and was not present by the Applicant's representative was present personally and was able to provide the necessary information to the Tribunal in order that a decision could be made in absence.**
- 2. The Applicant sought an Order for Eviction on Ground 12 of Schedule 3, Part 2 of the Private Housing (Tenancies) (Scotland) Act 2016.**
- 3. Namely that the Respondent has been in rent arrears for three or more consecutive months. The First-tier Tribunal finds that at the beginning of the day on which the Tribunal first considers the application the tenant was in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and she has been in arrears of rent for a continuous period. The contractual monthly rent for the property is £450.**
- 4. The Tribunal is satisfied that the tenant's being in arrears of rent over that period is not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit.**
- 5. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property as a copy title was lodged with the Application.**
- 6. There was a PRT in place between parties dated 4th July 2019.**
- 7. A Notice to Leave was sent to the Respondent on 4th November 2021.**
- 8. The Tribunal was satisfied on balance that Schedule 3, Part 2 Ground 12 of the 2016 Act was established.**
- 9. The Tribunal was also satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period.**
- 10. The Tribunal noted the Local Authority under the 2016 had been notified.**
- 11. On the evidence available to the Tribunal the Respondent had significant arrears over a lengthy period. As at the date of the application the arrears**

were £4005. As at the date of the CMD hearing the arrears were £5850. The Applicant's representative has in terms of the pre-action protocol taken significant steps to assist the Respondent in trying to make payment to the arrears. The respondent had 4 children and no known disabilities or vulnerabilities. The Applicant has 52 rental properties and he is currently receiving no income for this property. The Tribunal found an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020. However in terms of the overriding objective given the disability of the Respondent the Tribunal decided to order a delay of 2 weeks in the execution of the Order in terms of Rule 16A(d) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Amendment Regulations 2018.

12. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.

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.

K. Kirk

9th March 2023

Legal Member/Chair

Date