



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/22/3787

Re: Property at 62 College Bounds, Fraserburgh, Aberdeen, AB43 9QS (“the Property”)

Parties:

Mr Waleed Al-Khalidi, Mrs Lorraine Mandy Al-Khalidi, Northwood, Ythanbank, Ellon, Aberdeenshire, AB41 7TE (“the Applicant”)

Ms Andrea Higgins, 62 College Bounds, Fraserburgh, Aberdeen, AB43 9QS (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Elizabeth Currie (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 13th October 2022. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 12 of the Private Housing (Tenancies) Act 2016.
2. The case was conjoined with case FTS/HPC/CV/22/3788
3. The application included:-
 - a. Copy Scottish Government Model Private Residential Tenancy Agreement with commencement of tenancy being 13th December 2021;
 - b. Notice to Leave dated 14th July 2022;

- c. Section 11 notice noting proceedings would not be raised before 13th October 2021 with email servicing it on the local authority dated 13th October 2021;
 - d. Rent statement from 13th December 2021 to 13th September 2022. This detailed the rent of £650 per month and arrears of £2810.04;
 - e. Certificate of execution serving Notice to Leave upon the Respondent dated 14th July 2022; and
4. On 19th December 2022, all parties were written to with the date for the Case Management Discussion (“CMD”) of 14th February 2023 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 9th January 2023.
 5. On 22nd December 2022, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 22nd December 2022.
 6. On 26th January 2023, the Applicant’s representative emailed the Housing and Property Chamber requested the amount sought in the conjoined case FTS/HPC/CV/22/3788 be increased to £3575.04. This was notified to the Respondent by the Housing and Property Chamber by letter. The email included a rent account for the period 13th December 2021 to 13th January 2023.
 7. On 3rd February 2023, the Applicant’s representative emailed the Housing and Property Chamber with a Second Inventory of Productions which included various Pre Action Requirement Letters.

The Case Management Discussion

8. A CMD was held on 14th February 2023 at 2pm by teleconferencing. The Applicant was represented by Ms Kirstie Donnelly, Solicitor, TC Young. Ms Simone Callaghan, TC Young was observing. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make representations in advance of the hearing.
9. Ms Donnelly told the Tribunal that the current outstanding rent arrears has risen to £4225.04 after a further rent charge was applied to the account on 13th February 2023. Ms Donnelly said that there was last contact from the Respondent the weekend prior to the CMD. There was a leak that had gone into the property below. It had been accidental. The Applicant heard from a neighbour that the Respondent had told them that she was waiting to be rehoused to a smaller property by the local council once an order has been granted by the Housing and Property Chamber. The Applicant was told by the neighbour that the Respondent had said that she was not paying her rent to facilitate an order being granted. Ms Donnelly accepted that this was hearsay and as such could only be anecdotal. However, it was in line with the position of being rehoused with many local authorities.

10. Ms Donnelly said that the Respondent has been written to monthly to advise of her arrears. There have been no offers of payment. There have been payments but on a sporadic basis. Ms Donnelly believes that they have been made by the Respondent's ex partner. These payments were below the amount of the rent and the arrears were still arising as a result.
11. Ms Donnelly said that the Respondent had three children aged 8, 12 and 18. There are two large dogs in the Property. Ms Donnelly also noted that the Applicants have been contacted by Environmental Health regarding the rubbish bags at the back of the Property and a couch that had been dumped there. The Respondent has also been contacted directly by Environmental Health. The Applicants are concerned about the condition of the Property and whether there had been any damage done. There has not been an inspection since April 2022.
12. Ms Donnelly told the Tribunal that the Applicants are both retired. While there is not a mortgage on the Property it is used to supplement their income along with the other property that they rent out. The Respondent not paying her rent greatly affects them.
13. The Tribunal was satisfied that ground 12 had been met and that it was reasonable to grant an order for eviction.

Findings and reason for decision

14. A Private Rented Tenancy Agreement commenced 13th December 2021.
15. The Respondent has persistently failed to pay her rent charge of £650 per month. The rent payments are due to be paid on 13th day of each month.
16. Arrears have accrued to more than one months rent payment at the date of application and are more than three months rent payments at the date of the CMD.
17. There are no outstanding Universal Credit issues.
18. The arrears sought totalled £3775.04. The Tribunal was satisfied that the Respondent had been aware that a higher amount was being sought in the application which was £2810.04.

Decision

19. The Tribunal found that ground 12 has been established and granted an order in favour of the Applicant.

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 Miller

14th February 2023

Legal Member/Chair

Date