



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/22/1550

Re: Property at 39 Dalziel Street, Motherwell, ML1 1PJ (“the Property”)

Parties:

Supersave Properties Limited, 23 Townhead Street, Hamilton, ML3 7BQ (“the Applicant”)

Mr Ansley Beeltah, 39 Dalziel Street, Motherwell, ML1 1PJ (“the Respondent”)

Tribunal Member:

Karen Kirk (Legal Member) and Elizabeth Currie (Ordinary Member)

1. This Hearing was a Case Management Discussion (hereinafter referred to as a “CMD”) fixed in terms of Rule 109 and concerned an Application for an Order for Eviction under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The purpose of the hearing 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 also be made.

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondent under section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016.

2. Attendance and Representation

The Applicant’s director was present. Mr Naeem Ahmed is a director for the Applicants.

The Respondent was not present. He was served by Sheriff Officer on 31st August 2022.

3. Preliminary Matters

The Respondent was not in attendance. The Applicant said the last contact with the Respondent was 9 or 10 weeks ago when he was advised the Respondent had had an altercation in the property. This altercation was between him and persons in the property unknown to the Applicants and police were involved. The Applicant said that the Respondent was not in the property and his mother has explained he has been rehoused since the altercation by North Lanarkshire Council.

The Applicant said that the Respondent is single, in his twenties and that the Applicants had written and emailed the Respondent in regards his arrears. The Applicant's had also sought his new address and this was not disclosed to them

4. Case Management Discussion

The Applicant referred to his application and said he wishes a proper procedure as given it is likely the Respondent was not residing at the property and had been housed elsewhere he still sought an order for eviction based on rent arrears. At the time of the application the rent arrears for the property were £3727.50. The current rent arrears were £5477.50. No payments to rent had been made since the application.

The Applicant said the property is a one bedroom flat, is single and it was his mother that had paid the rent. The Respondent was unemployed. and had periods of intermittent employment. The Applicant had applied for direct payments from universal credit at one point and this was successful but then this ended.

The Applicant's had written and emailed the Respondent in regards his arrears. The Applicant's had also sought his new address and this was not disclosed to them. The Applicant said the Respondent was in significant rent arrears and sought an Eviction order on this basis.

5. Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made in the absence of the Respondent at the Hearing and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. The Respondent had been served by Sheriff Officer and had not provided any written representations or appeared at the Hearing. His mother was also aware of matters**
- 2. The Applicant sought an Order for Eviction on the grounds of rent arrears.**

3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property as a copy title was lodged with the Application.
4. There was a PRT in place between parties dated 22nd November 2018. A Notice to Leave was sent to the Respondent on 7th April 2022. The Applicant's representative has sent pre action requirement correspondence to the Respondent and a copy of same was lodged.
5. The Tribunal was satisfied on balance that the Respondent was in terms of Schedule 3, Part 3 Ground 12 of the 2016 Act at the beginning of the day the Tribunal first considered the application for an Eviction Order on its merits in arrears of rent by an amount equal to or greater than the amount which would be payable as rent under the tenancy on that day and has been in arrears of any amount for a continuous period of up to 3 or more consecutive months.
6. As at the date of the hearing the rent arrears for the property due by the Respondent amounted to £5477.50. The rent arrears at the date of the application was £3727.50. Monthly contractual rent is £350.
7. Further the Tribunal was satisfied on a balance of probabilities that the said arrears are not wholly or partly due to delay or failure of payment of the relevant benefit.
8. The Tribunal found that the requirements of Ground 12 of Schedule 3 to the Act had been met.
9. Further the Tribunal was satisfied that the rent arrears were of a substantial nature.
10. 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.
11. The Tribunal noted the Local Authority under the 2016 had been notified.
12. On the evidence available to the Tribunal the Respondent had no dependents residing with him and it was likely he had left the property. The Applicant was financially affected by the non payment of rent for some time but the property also appeared to be empty. The Tribunal found an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020.
13. 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.

Karen Kirk

16th November 2022
