



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/23/0974

Re: Property at Flat 4 3 Bruce Street, Clydebank, G81 1TT (“the Property”)

Parties:

Mrs Leanne Tivendale, 16 Braehead Crescent, Clydebank, G81 6PF (“the Applicant”)

Mr Graeme Henderson, Flat 4 3 Bruce Street, Clydebank, G81 1TT (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondent from the property.
2. By decision dated 13 April 2023, a Convenor of the Housing and Property Chamber having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Notice of Acceptance was intimated to the Applicant’s representative on 18 April 2023. The Tribunal intimated the application to the parties by letter of 18 May 2023 and advised them of the date, time and conference call details of today’s CMD. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a

decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 8 June 2023. No written representations were received from the Respondent.

The case management discussion

4. The CMD took place by conference call. The Applicant was represented by Mr Jarvie. The Respondent did not join the conference call and the discussion proceeded in his absence. This case called alongside a related case which proceeds under chamber reference FTS/HPC/CV/23/0975. The Applicant's representative explained that the last contact between the parties was in October 2022 when the Respondent indicated that he suffered from some health problems and intended to move out of the property. There was no information to suggest that the Respondent has in fact vacated the property. The Respondent lives alone at the property and is believed to be unemployed. The arrears of rent have increased to £7,050 which equates to 16 months' rent. It was submitted that it was reasonable in all of the circumstances to grant an order for eviction on the basis of ground 12A.

Findings in Fact

5. The parties entered into a private residential tenancy which commenced 1 May 2018.
6. The Applicant served the Notice to Leave on the Respondent by email on 17 March 2023.
7. As at the date of the Notice served, and as at the date of this CMD, the Respondent had incurred substantial rent arrears which equated to more than 6 months' rent arrears.

Reason for Decision

8. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Respondent failed to participate in the discussion and did not lodge any written submissions. The rent arrears are substantial and have been outstanding for a considerable period of time. The Respondent has not paid rent since February 2022. There has been no contact from the Respondent for many months and there was no indication that rent payments would recommence. The Tribunal took account of the Respondent's circumstances as known to the Applicant. The updated rent statement lodged demonstrated that there are significant arrears of rent. There was nothing to indicate that the Respondent disputed the level of rent arrears shown on the updated rent statement. The Tribunal was satisfied that the ground for eviction was established and that it was reasonable to grant the order evicting the Respondent from the property.

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

22 June 2023
Date