



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 (Act)

Chamber Ref: FTS/HPC/EV/19/3857

Re: Property at Flat 3-1, 37 Virginia Street, Glasgow, G1 1TS (“the Property”)

Parties:

Mr David Murray Innes, Mrs Janet Ruth Innes, Beach House, 1A Undercliff Road, Wemyss Bay, PA18 6AQ (“the Applicant”)

Mr Abdulmalik Damisa Muhibdeed, Flat 3-1, 37 Virginia Street, Glasgow, G1 1TS (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member)

Decision (in absence of the Respondent)

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

Background

This is an application under section 51(1) of the Act and Rule 109 of the Tribunal Procedure Rules seeking recovery of possession and eviction under Ground 12 of Schedule 3 to the Act.

The Tribunal had regard to the following documents lodged with the application:

1. Application received 3 December 2019;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 1 October 2018;
3. Schedule of Rent Arrears;
4. Notice to Leave dated 9 September 2019;
5. Royal Mail Track and trace in respect of Notice to Leave;
6. Section 11 Notice to Local Authority. Alan Strain

Case Management Discussion (CMD)

The case called for a CMD on 29 January 2020. The Applicants were represented by their Solicitor. The Respondent did not appear and was not represented.

The Tribunal was satisfied that the Respondent had been served with notification by Sheriff Officers under reference to the Certificate of Service dated 30 December 2019. The Respondent accordingly knew that the Tribunal could proceed in his absence and determine the matter if it had sufficient information to do so and the procedure was fair.

The Tribunal considered the documentation and made the following findings in fact:

1. The Parties entered in to a PRTA commencing 1 October 2018;
2. The monthly rent was £775;
3. As at the date of service of the Notice to Leave dated 9 September 2019 the Respondent was in arrears of rent in the sum of £5006.71;
4. As at the date of the CMD the Respondent was in arrears of rent in the sum of £3,950.00;
5. The Respondent had been continuously in arrears since October 2018;
6. The Notice to Leave had been validly served by Royal Mail;
7. Section 11 Notification had been given to the Local Authority;
8. The rental arrears were not due in any part to a failure or delay in paying a relevant benefit.

The Tribunal considered the findings and the requirements of section 51(1) and Ground 12. The Tribunal was satisfied that it had sufficient information to determine the matter and that it was fair to do so.

The Respondent had been continuously in arrears since October 2018, was in arrears £5006.71 at the date of service of the Notice to Leave and £3,950 at the CMD. He had been continuously in arrears in excess of 1 month's rent for a period in excess of 3 months.

The Tribunal granted the order for recovery of possession and eviction sought.

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.

Alan Strain

29 January 2020

Legal Member/Chair

Date