



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/23/1025

Re: Property at Flat 5 30 Hay's Walk, Haddington, Edinburgh, East Lothian, EH41 3FH ("the Property")

Parties:

Places for People Scotland in Association with Castle Rock Edinvar Housing Association, 1 Hay Avenue, Edinburgh, EH16 4RW ("the Applicant")

Mr Andrew Boyle, Flat 5 30 Hay's Walk, Haddington, Edinburgh, East Lothian, EH41 3FH ("the Respondent")

Tribunal Members:

Alan Strain (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

This was an application under Rule 109 and section 51(1) of the Act in respect of the Applicants' intention to sell the Property and for eviction and recovery of possession on Grounds 12 and 12A of Schedule 3 to the Act.

The Tribunal had regard to the following documents:

1. Application received 29 March 2023;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 7 May 2021;
3. Notice to Leave dated served by email on 15 December 2022;
4. Pre-action correspondence;
5. Section 11 Notice to Local Authority;
6. Email dated 27 March 2023 to Local Authority serving Section 11 Notice;

7. Rent Arrears Statement as at 1 March 2023;
8. Sheriff Officer Certificate of Service of Tribunal CMD Notification on Respondent dated 13 July 2023;
9. Written Representations from the Applicant received 14 August 2023 enclosing updated Rent Statement as at 1 August 2023.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 16 August 2023. The Applicants did not participate and were represented by their Solicitor. The Respondent did not participate and was not represented.

The Tribunal delayed the start of the CMD to see if the Respondent would participate but he did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that he should attend and the Tribunal could determine the matter in absence if he did not.

The Applicants' Representative confirmed that the amount of arrears had increased to £13,392.83 as at 1 August 2023.

The Tribunal explained that it would still have to be satisfied that it was reasonable to grant the order sought.

The Applicants' Representative then addressed the Tribunal on the issue of reasonableness. He drew attention to the updated amount of rental arrears. The rent arrears were increasing and no rent was being paid.

The Respondent lived in the Property on his own, was working (2 jobs) and was not paying rent. He has 3 children (aged 12, 10 and 5) who reside from time to time with him. The Respondent has not engaged since January 2023 which was his last rental payment. He has not responded to any correspondence on the Applicants' behalf.

The Tribunal then considered the documentary and oral evidence it had received from the Applicants and in so far as material made the following findings in fact:

1. The Parties let the subjects under a PRTA commencing 7 May 2021;
2. The monthly rent was £675.35;
3. Notice to Leave had been served on the Respondent on 15 December 2022;
4. As at the date of service of the Notice to Leave the Respondent was in arrears of rent in an amount in excess of 6 months' rent and had been in arrears for a continuous period of three or more consecutive months;
5. As at the date of the Hearing the Respondent was in arrears of rent in the sum of £13,392.83;
6. The rental arrears were not due to any delay or failure in the payment of a relevant benefit;
7. Section 11 notification had been served on the local authority;

8. The Respondent lives in the Property on his own and has visits from his children in the Property;
9. The Respondent is in employment and is not paying the monthly rent.

The Tribunal was satisfied that Ground12A had been established and it was reasonable to grant the application for eviction and recovery of possession given the significant rent arrears which continued to increase.

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

16 August 2023

Date