



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/23/1915

Re: Property at 10 Gallacher Ave, Paisley, PA2 9HE (“the Property”)

Parties:

Mr Gary McAllister, 23 Leesland, Uddingston, G71 6TW (“the Applicant”)

Miss Rebecca Shaw, 10 Gallacher Ave, Paisley, PA2 9HE (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Gerard Darroch (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 12th June 2024. 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 4 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 16th November 2024, all parties were written to with the date for the Case Management Discussion (“CMD”) of 15th January 2024 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 16th November 2024.
3. On 17th November 2023, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 17th November 2023.

The Case Management Discussion

4. A CMD was held on 15th January 2024 at 2pm by teleconferencing. The Applicant was present and represented himself. The Respondent was not present or represented. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the CMD.
5. The Applicant confirmed that on 7th March 2023 there was a leak from the sewage pipe at the toilet. The leak was significant. He fixed the pipe there and then but was so concerned about the extent of the potential damage to the Property that he served a Notice to Leave the next day. He has been a landlord for 10 years. He has three properties. He has done work on them over the years. He is an aeronautical engineer and this has lead him to do plumbing work and electrical work within his employment. He plans to do the work to the Property himself. It will be around this paid employment. As there is only one toilet in the Property the Respondent will need to have vacated the Property first. The Applicant said that the Respondent has not said that she has somewhere to go while the repairs are done. He suspects that there could be substantial damage to the floor and kitchen wall. In addition there was a rat infestation in summer. As this has never happened in any of his properties he believes that this is a result of the sewage leak. This rats infestation has been dealt with but the Applicant believes that there must be holes where they have managed to get in. He is looking to make sure that all of these are sealed. The Respondent also reported that a kitchen unit was loose on the wall. The Respondent left this for weeks before reporting it. The Applicant is concerned that the kitchen may need to be replaced as it is old. He has not undertaken a surveyors report to find out the extend of the damage. He has estimated the work to take 4 weeks to complete.
6. The Applicant said that the Respondent is supported by her grandparents. Universal Credit does not pay the full amount of the rent but her grandparents pay the shortfall. There are rent arrears on the Property amounting to £970. This is the same amount detailed in August in the application. The Applicant is not concerned about the rent arrears. He had raised antisocial behaviour in his application. He said that this is not an issue either. He does not believe that the Respondent has had a property with a garden before and this matter has now been resolved. The Respondent has a social worker and is in contact with Bernardos. The Applicant does not know why that is. The Respondent gave her social worker's details. He has tried to call her and email her social worker but there has been no response. The Respondent said that her social worker is not good with communicating. The Applicant said that the Respondent does not communicate often with him. He last spoke to her when he was fixing the kitchen unit.
7. The Applicant wants an order for eviction so that he can address the repairs. He is concerned that the repairs need to be done. He is also concerned that the need for the work is causing health and safety issues within the Property to the Respondent.

8. The Tribunal considered everything that was in the papers and what the Applicant had told them and decided it was reasonable to grant an order for eviction. They noted that the Respondent has had the opportunity to attend.
9. The Tribunal raised to the Applicant that this case is caught by the Cost of Living (Tenant Protection)(Scotland) Act 2022 which means that the Order is not enforceable until 31st March 2024.

Findings and reason for decision

10. A Private Rented Tenancy Agreement commenced 11th May 2022.
11. There was a leak from the sewage pipe connecting to the toilet on 7th March 2023. This caused there to be raw sewage in the Property and leak into the floor. It is believed that there is substantial damage caused by the leak. The Applicant has been a landlord for over 10 years with three different properties and has undertaken a lot of plumbing and electrical work during this time as a landlord and at his own place of employment. He has estimated the work to take 4 weeks to complete.
12. The Applicant has tried to contact the Respondent and her social worker but has had little response from the Respondent and no response from the social worker.
13. It is possible that there could be health and safety issues arising from the repairs which need to be undertaken.
14. The Respondent is believed to have spoken to her local authority regarding housing.
15. There are no issues of reasonableness that prevent an order from being granted.

Decision

16. The Tribunal found that ground 4 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

15 January 2024

Legal Member/Chair

Date