

Housing and Property Chamber
First-tier Tribunal for Scotland



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

Chamber Ref: FTS/HPC/EV/23/3686

Re: Property at 57 Burnbrae Road, Bonnyrigg, Edinburgh, EH19 3EY (“the Property”)

Parties:

Mr Scott Fairbairn, Mrs Emma Fairbairn, 19 Sherwood Loan, Bonnyrigg, EH19 3NF (“the Applicant”)

Mr Hassan Ridha, Ms Shawnee Ridha, 57 Burnbrae Road, Bonnyrigg, Edinburgh, EH19 3EY (“the Respondent”)

Tribunal Members:

Mark Thorley (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 an order for eviction be granted.

Background

The applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) for an order of eviction by application dated 18 October 2023. Accompanying the application was a copy of the Private Residential Tenancy Agreement, Notice to Leave, sheriff officers’ Execution relating to Notice to Leave, Section 11 Notice, email to Local Authority intimating the Section 11 Notice and an Affidavit of Scott Fairbairn the applicant. The application was received by the tribunal on 19 October 2023. On 8 November 2023 the application was accepted.

The application was served by sheriff officers on 8 December 2023.

There were no written representations from the respondent.

Case Management Discussion

At the case management discussion Ms Donnelly from TC Young represented the applicant. The respondent did not attend.

The position regarding the applicant was the same as previously set out in Mr Fairbairn's Affidavit namely that Mr Fairbairn together with his wife and two children continued to reside with his parents in one bedroom in the property. The respondent continued to live in the property with three children. The rental property consisted of two bedrooms and a study. The applicant required the property in order to live in.

Findings in Fact

1. The property at 57 Burnbrae Road, Bonnyrigg, Edinburgh, EH19 3EY was subject to a Private Residential Tenancy Agreement between the parties.
2. The applicant is living at his parents' house in one bedroom. The applicant's parents' house is overcrowded.
3. The applicant requires to return to the rental property in order to live.

Reasons for Decision

The respondent did not appear to oppose the application. Information given through the letting agent of the property was to the extent that the respondents were not objecting to the application being granted. There were no rent arrears on the property but the applicant has now been living with his parents and in family since approximately May 2023 in one bedroom. That cannot continue. As a result the applicant does require to return to live in the rental property. It is appropriate for both schooling and employment. It is reasonable in the circumstances to grant the order.

Decision

To grant an order of eviction.

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.

Mark Thorley

01 February 2024

Legal Member/Chair

Date