



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/19/2454

Re: Property at 6 Viewbank Drive, Bonnyrigg, EH19 2HS (“the Property”)

Parties:

Mr Philip McGill, 14 Waverley Drive, Bonnyrigg, EH19 3BL (“the Applicant”)

Ms Debra Docherty, 6 Viewbank Drive, Bonnyrigg, EH19 2HS (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal 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 to recover possession of the property.

Background

The Applicant submitted an application seeking an order to evict the Respondent from the property at 6 Viewbank Drive, Bonnyrigg, EH19 3BL. The Tribunal issued a letter to the parties dated 29th August 2019 advising them of the date, time and place of today’s case management discussion. In that letter, the parties were also told that they required to attend the hearing 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 19th September 2019. No written representations were received.

The Case Management Discussion

The Applicant was represented by his solicitor, Miss Gaughan. The case management discussion proceeded in the absence of the Respondent.

The Tribunal noted that there were no written representations made by the Respondent and the Tribunal was therefore unaware of the Respondent's position. The Applicant's solicitor advised that the Applicant intends to live in the property as his principal home for the foreseeable future and certainly more than 3 months. An affidavit of the Applicant has been produced and is with the case papers.

The Applicant's solicitor advised that the order for eviction was sought on the basis of ground 4 of schedule 3 of the 2016 Act.

Findings in Fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement dated 14th July 2018.
2. The Applicant served Notice to Leave by recorded delivery on 3rd April 2019.
3. The Applicant intends to occupy the property as his principal home for a period of at least 3 months.
4. The Applicant is entitled to the Order sought for repossession.

Reason for Decision

The Tribunal proceeded on the basis of the written documents which were before it. The Respondent was given an opportunity to provide written representations to the Tribunal; she failed to do so and she failed to attend the case management discussion. The Applicant's solicitor invited the Tribunal to make the Order sought. The Applicant relied upon Ground 4 of Schedule 3 of the 2016 Act. The Notice to Leave had been properly served. The Tribunal was satisfied that Ground 4 had been established. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

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.

N. Irvine

Legal Member/Chair

8th October 2019
Date