



Decision 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/19/4072

Re: Property at 435 Greenrigg Rd, Carbrain, Cumbernauld, G67 2PP (“the Property”)

Parties:

Mr Steven Woodside, 12A Darroch Way, Seafar, Cumbernauld, G67 1PY (“the Applicant”)

Miss Kayleigh Marr, 435 Greenrigg Rd, Carbrain, Cumbernauld, G67 2PP (“the Respondent”)

Tribunal Members:

Lesley A Ward (Legal Member)

1. Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for the eviction of Miss Kayleigh Marr be made on the ground that the applicant wishes to sell the property.

- 2. This is a case management discussion ‘CMD’ regarding an application for ground 1 eviction in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’ and s52 of the Private Housing (Tenancies)(Scotland) Act 2016, ‘the Act’. The applicant attended. The respondent did not attend and was not represented. The tribunal had sight of the sheriff officer’s execution of service dated 14 February 2020 confirming that service of the application and CMD notification had been effected on that date. The tribunal was satisfied that the respondent had been given appropriate notification in terms of rule 24 and proceeded with the CMD in the respondent’s absence in terms of rule 29.**

3. The tribunal had before it the following copy documents:

- Application dated 1 December 2019 and received by the tribunal on 24 December 2019.
- Private residential tenancy agreement.
- Notice to leave.
- Proof of delivery of notice to leave.
- Land certificate.
- S11 notice on the local authority.
- Proof of service of s11 notice.
- Letter of authority of Mrs Sutherland, joint owner of the property.
- Selling agreement between K Property and applicant and joint owner.

4. Discussion

The applicant was seeking an eviction order today. He owns the property jointly with his mother and they intend to sell it. They have agreed K Property will act as estate agents and he has lodged an agreement which was entered into on 21 January 2020. The tribunal noted that the s11 notice has been made and proof of service has been lodged. The appropriate box on the s11 notice has however not been ticked. The applicant undertook to ensure that the notification was done again today with the correct box ticked.

5. Findings in fact and law

- The applicant is the joint owner of the property.
- The applicant entered into a private residential tenancy, 'PRT' with the respondent for let of the property on 7 June 2019.
- The applicant intends to sell the property.
- The applicant's representative served the respondent with a valid notice to leave dated 22 October 2019.
- The notice to leave was served by recorded delivery in accordance with the terms of the PRT. The respondent signed for the notice to leave on 23 October 2019.
- The notice to leave required the respondent to leave the property by 21 November 2019.
- The respondent continues to reside in the property.

6. Reasons

This was an undefended application for eviction on ground 1 of schedule 3 of the Act. At the date of the notice to leave the respondent had resided in the property less than 6 months. 28 days' notice is therefore appropriate. The applicant has engaged an estate agent to sell the property. The applicant was prepared to give an undertaking to redo the s11 notification today with the correct box ticked. In accordance with the overriding objective the tribunal accepted this rather than adjourning the CMD for this purpose, given the notification had been done and proof of posting had ben lodged. The tribunal had sufficient information before it to make a decision and the procedure had been fair. The tribunal accordingly granted the eviction order 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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Mrs Lesley A Ward

16 March 2020

Lesley A Ward Legal Member

Date