



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/21/2199

Re: Property at 134a Albion Street, Coatbridge, North Lanarkshire, ML5 5EB (“the Property”)

Parties:

Mr Deodat Chataroo, 50 Old Monkland, Coatbridge, North Lanarkshire, ML5 5EB (“the Applicant”)

Mr Robert John Restrict, 134a Albion Street, Coatbridge, North Lanarkshire, ML5 5EB (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 5 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

- Background
- 1. An application was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought a repossession order against the Respondent on the basis that a member of the Applicant’s family intends to live in the Property, being Ground 5 under Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”).

- Case Management Discussion

2. A Case Management Discussion (“CMD”) took place on 25 February 2022. The Applicant was personally present, alongside his wife, Mrs Chateroo. There was no appearance by or on behalf of the Respondent. The Tribunal was satisfied that the application had been intimated on the Respondent by way of Sheriff Officer on 21 January 2022 and that the Respondent had sufficient intimation of the date and time of the CMD. Accordingly, the Tribunal was satisfied that the CMD could proceed in the Respondent’s absence.
3. The Applicant moved for the Order to be granted as sought. The parties had entered into a Private Residential Tenancy Agreement (“the Agreement”), which commenced 21 December 2020. The Applicant’s son intends to occupy the Property. The Applicant’s son lives with the Applicant currently and is in full-time work in Scotland. However, the Applicant is in the process of selling his house and relocating to England. At that point, the Applicant’s son will have nowhere to live and requires the Property to live in as he wishes to continue to reside in Scotland. A Notice to Leave had been served on the Respondent on the basis of Ground 5 of Schedule 3 to the 2016 Act, on 10 September 2021. There had been no contact from the Respondent since then and he was still believed to be residing within the Property. The Respondent’s personal circumstances were unknown as despite a number of requests, he had failed to meet with, or speak to, the Applicant. A letting agent had arranged the tenancy, and the Applicant had never met the Respondent despite attempts to do so.
4. The following documents were lodged alongside the application:
 - (i) Copy Private Residential Tenancy Agreement
 - (ii) Copy Notice to Leave
 - (iii) Proof of service of the Notice to Leave by recorded delivery
 - (iv) Section 11 notification to the local authority under the Homelessness etc. (Scotland) Act 2003
 - (v) Signed letter from the Applicant’s son

- Findings in Fact

5. The Tribunal made the following findings in fact:
 - (i) The parties entered into a Private Residential Tenancy Agreement which commenced on 20 December 2020;
 - (ii) The Applicant is the heritable proprietor of the Property;
 - (iii) a member of the landlord’s family intends to occupy the let property as that person’s only or principal home for at least 3 months;
 - (iv) The Applicant has served a Notice to Leave on the Respondent on the basis of Ground 5 of Schedule 3 to the 2016 Act;

- Reasons for Decision

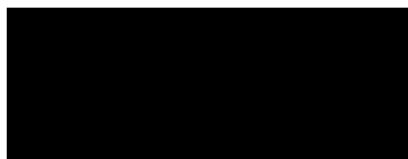
6. The Tribunal was satisfied that the terms of Ground 5 of Schedule 3 to the 2016 Act had been met, namely that the Applicant's son intends to live in the Property and intends to do so for at least 3 months. The Tribunal was satisfied that a Notice to Leave had been served on the Respondent and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act. The Tribunal was satisfied that it was reasonable to grant the Order in the circumstances. The Applicant's son would be homeless following sale of the family home and the Applicant's relocation to England. The Respondent had failed to respond to the application, and failed to attend at the CMD to make any verbal submissions as to his position.

- Decision

7. The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 5 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

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

Date: 25 February 2022