



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/21/3153

Re: Property at 9 Raeburn Park, Perth, PH2 0ER (“the Property”)

Parties:

Mrs Judith Murrie, Mr Philip Murrie, 137 Glasgow Road, Perth, PH2 0LU (“the Applicants”)

Mr Lee Northcott, Mrs Jamie-Lee Northcott, 9 Raeburn Park, Perth, PH2 0ER; 9 Raeburn Park, Perth, PH2 0ER (“the Respondents”)

Tribunal Members:

Graham Harding (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants were entitled to an order for the eviction of the Respondents from the property under Ground 5 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”).

Background

1. By application dated 20 December 2021 the Applicants’ representatives, McCash & Hunter, Solicitors, Perth applied for an order for the eviction of the Respondents under Ground 5 of Schedule 3 of the 2016 Act. They submitted a copy of the tenancy agreement, Notice to Leave, Section 11 Notice and email to Perth & Kinross Council and affidavits from the Applicants in support of the application.
2. By Notice of Acceptance dated 1 February 2022 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondents by Sheriff Officers on 3 March 2022.

The Case Management Discussion

4. A CMD was held by teleconference on 12 April 2022. Mrs Murrie attended in person and was represented by Ms Pantaeli of the Applicants' representatives. The Respondents did not attend nor were they represented. The Tribunal being satisfied that proper intimation of the CMD had been given to the Respondents determined to proceed in their absence.
5. Ms Pantaeli confirmed that the Applicants were seeking the eviction of the Respondents from the property under ground 5 of Schedule 3 of the 2016 act as the Applicants required the property in order that their adult daughter could live in it.
6. Ms Pantaeli advised the Tribunal that the tenancy had commenced on 15 June 2020 at a rent of £750.00 per month and the Notice to Leave had been sent by email on 30 August 2021. She went on to explain that at the commencement of the lease the Applicants' daughter had been a student at the University of the Highlands and Islands and had been living at home. She had then graduated and had found employment with Victim Support. Ms Pantaeli explained that as the Applicants' daughter's job was temporary, she was unable to obtain a mortgage or rent a property herself. The work she was doing was confidential and was 100% remote working. Working from the Applicants' home was no longer suitable as she needed her own space.
7. Ms Pantaeli went on to say that since the Notice to Leave had been sent the Respondents had built up significant rent arrears amounting to £6344.00 and a separate application for payment had been made to the Housing and Property Chamber. She said that the Respondents had advised the Applicants' letting agents, Belvoir that as their tenancy had ended on 1 December 2021, they no longer needed to pay rent. Ms Pantaeli advised the Tribunal that the Applicants had a mortgage over the property that had to be paid. She said there had been some communication between the Respondents and the letting agents and the Respondents had offered to clear the rent arrears in March but this had not occurred.
8. Ms Pantaeli advised the Tribunal that she understood the Respondents had two children of primary school age living with them at the property. She confirmed the property had three bedrooms, two large and one small and that it was intended that the Applicants' daughter would live in the property on her own.

Findings in Fact

9. The parties entered into a Private Residential Tenancy Agreement that commenced on 15 June 2020 at a rent of £750.00 per calendar month.

10. The Respondents were served with a Notice to Leave under Ground 5 of Schedule 3 of the 2016 Act by email on 30 August 2021.
11. Perth & Kinross Council were given notice of these proceedings by intimation of a Section 11 Notice on 20 December 2021.
12. The Applicants wish to evict the Respondents in order that it can be occupied by their adult daughter.
13. The Respondents have two primary school aged children residing in the property with them.
14. The Respondents have accrued rent arrears since being served with a Notice to Leave.

Reasons for Decision

15. The Tribunal was satisfied from the documentary evidence produced and from the oral submissions that the procedural requirements for obtaining an order under Ground 5 of Schedule 3 of the 2016 Act had been met in that a valid notice to Leave had been served on the Respondents and intimation of the proceedings had been sent to Perth & Kinross Council by way of a Section 11 Notice.
16. Before granting an order for eviction under Ground 5 of Schedule 3 of the 2016 Act the Tribunal requires to be satisfied that it would in all the circumstances be reasonable to do so. In reaching its decision the Tribunal considered the Applicants' affidavits and the additional submissions made on their behalf by Ms Pantaeli. It also took account of the limited information available to it as regards the Respondents' circumstances as for whatever reason they chose not to attend or be represented at the CMD.
17. The Tribunal was satisfied that the confidential nature of the Applicants' daughter's employment did mean that it would be preferable if she could have her own property. Her current status precluded obtaining a mortgage and also made it more difficult to obtain private rented accommodation. Whilst the Tribunal had some sympathy for the Applicants that they had experienced difficulty with obtaining rent since serving the Notice to Leave the Tribunal did not consider this was in fact relevant to a determination of reasonableness in terms of paragraph (2)(b) of Ground 5. The Tribunal considered that although the Respondents had young family on balance it was reasonable to grant the order sought.

Decision

18. The Tribunal determined that the Applicants were entitled to an order for the eviction of the Respondents from the property under Ground 5 of Schedule 3 of the 2016 Act.

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 Harding

Legal Member/Chair

**12 April 2022
Date**