



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/22/0033

Re: Property at 91 Baldwin Avenue, Glasgow, G13 1RR (“the Property”)

Parties:

Mr John Deans, 11 Helensburgh Drive, Glasgow, G13 1RR (“the Applicant”)

Ms Kristina Griffiths, 91 Baldwin Avenue, Glasgow, G13 1RR (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property under Ground 4 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Background

1. By application dated 5 January 2022 the Applicant applied to the Tribunal for an order for the eviction of the Respondent from the property under Ground 4 of Schedule 3 of the 2016 Act. The Applicant submitted a copy of the Tenancy Agreement, Notice to Leave and Section 11 notice in support of the application.
2. By Notice of Acceptance dated 9 February 2022 a legal member of the Tribunal accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 3 March 2022.

The Case Management Discussion

4. A CMD was held by teleconference on 19 April 2022. The Applicant attended in person the Respondent did not attend nor was she represented. The Tribunal being satisfied that proper intimation had been given to the Respondent determined to proceed in her absence.
5. The Applicant explained that within the previous few days he had been advised by the Respondent's neighbours that the property had been abandoned. He went on to say he had attended at the property and had discovered it to be unoccupied. Several windows had been smashed and internal walls and carpets damaged. He said that he had entered the property and a large amount of mail was behind the door and there were numerous bags of rubbish left in the property and the garden. He thought the property had been empty for several weeks. He said it would take a couple of months to refurbish the property.
6. The Applicant asked the Tribunal to consider allowing him to amend the grounds for eviction to add an additional ground namely Ground 10 of Schedule 3 that the Respondent was not occupying the property. The Tribunal had a short adjournment to consider the Applicant's motion. On resuming the Applicant advised the Tribunal that he had decided not to insist on the amendment but wished to proceed on the original ground.
7. The Applicant confirmed the terms of the Tenancy Agreement and the Notice to Leave and the Section 11 Notice. The Applicant explained that his personal circumstances had prompted the application as he and his wife had separated but he was still residing in the matrimonial home but that this situation was no longer tenable and he had to find somewhere else to live. He went on to say that he was currently paying the mortgage on the matrimonial home and on the property. The Respondent had accrued substantial rent arrears having not paid any rent for about eighteen months. The Applicant explained that although he owned other tenanted properties he could not afford to live in any other property and have no income from the property and pay the mortgage on it. He needed to move into it for financial reasons.
8. In response to a query from the Tribunal the Applicant said that he was aware that the Respondent had a partner and children but had no other information about her circumstances. He explained he had last spoken to the Respondent about six months previously in connection about her rent arrears. He said the respondent had made various promises to pay rent but nothing had been forthcoming.

Findings in Fact

9. The parties entered into a Private Residential Tenancy that commenced on 27 May 2019 at a rent of £595.00 per calendar month.

10. The Applicant served a Notice to Leave on the Respondent by email on 31 May 2021 giving the Respondent until 3 September 2021 to vacate the property.
11. The Applicant sent a Section 11 notice to Glasgow City Council by email on 5 January 2022.
12. The Respondent has accrued rent arrears of about 18 months' rent.
13. The Respondent has caused damage to the property.
14. The Respondent appears to be no longer occupying the property.
15. The Respondent has a partner and children.
16. The Applicant has separated from his wife and requires the property as his principal home.
17. The Applicant is paying the mortgage on the property but deriving no income from it.

Reasons for Decision

18. The Tribunal was satisfied from the documentary evidence produced that the parties had entered into a Private Residential Tenancy and that a valid Notice to Leave had been served on the Respondent and that proper intimation of the proceedings had been sent to the local authority.
19. Having been satisfied that the procedural requirements for granting an order under Ground 4 of Schedule 3 of the 2016 Act had been met the Tribunal went on to consider whether in all the circumstances it would be reasonable to grant the order. The Tribunal took account of the fact that in addition to the change in the Applicant's marital and financial status it appeared that the Respondent may no longer be occupying the property and had caused damage to it. She had also not paid any rent for some 18 months which had placed a financial strain on the Applicant. The Tribunal had very little personal information about the Respondent's circumstances but considered it significant that she had not taken the opportunity to submit any written representations or attend the CMD. Taking everything into account the Tribunal was of the view that it had sufficient information before it to make a decision without the need for a hearing and that it was reasonable to grant the order for eviction.
20. The Tribunal's decision was unanimous.

Decision

21. The Tribunal finds the Applicant entitled to an order for the eviction of the Respondent from the property under Ground 4 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.

**Graham Harding
Legal Member/Chair**

**19 April 2022
Date**