



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 “The Act”

Chamber Ref: FTS/HPC/EV/23/1707

Re: Property at Flat 1/1, 313 St George's Road, Charing Cross, Glasgow, G3 6JQ (“the Property”)

Parties:

Nevis Properties Limited, 6th Floor, Gordon Chambers, 90 Mitchell Street, Glasgow, G1 3NQ (“the Applicant”)

Mr Tomas Robertson, Connie Phillips, Flat 1/1, 313 St George's Road, Charing Cross, Glasgow, G3 6JQ (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order.

Background

[1] The Applicant seeks an Eviction Order under Ground 11 of Schedule 3 of the Act in that the Respondents are alleged to have breached a condition of the tenancy. The Respondents are said to be letting the Property out on AirBnB which is prohibited by condition 12 of the tenancy. The Application is accompanied by a copy of the tenancy agreement, the notice to leave and proof of service, the relevant notice under s11 of the Homelessness (etc) (Scotland) Act 2003 and evidence of the Property being let on AirBnB.

The Case Management Discussion

[2] The Application called for a Case Management Discussion (CMD) by conference call at 2pm on 20 September 2023. The Applicants were represented by Ms McKendrick of Tay letting. There was no appearance by or on behalf of the Respondents. On the basis that the Application and information about the CMD had been served on the Respondents by Sheriff Officers, the Tribunal decided to proceed in the absence of the Respondents.

[3] Having heard from Ms McKendrick, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The Applicant acquired the landlord's interest in a tenancy agreement that let the Property to the Respondents. When they acquired this interest, they were supplied with a copy of a tenancy agreement that oddly had the names of the tenants redacted. They have not been able to obtain an unredacted version but there is evidence that the Respondents are in occupation of the Property;*
- II. *The Respondents have been marketing the Property on AirBnB and hosting guests there for profit. This is a breach of Condition 12 of the tenancy;*
- III. *The Applicants have competently served a notice under ground 11 of Schedule 3 of the Act on the Respondents and complied with s11 of the Homelessness (etc) (Scotland) Act 2003;*
- IV. *The said ground is established and it is reasonable to make an Eviction Order.*

Decision

[4] Having made the above findings in fact, the Tribunal granted the Application and made an Eviction Order.

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.

A McLaughlin

Legal Member/Chair

20 September 2023

Date