



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/21/2756

Re: Property at Flat 1/2, 23 Low Barholm, Kilbarchan, PA10 2ES (“the Property”)

Parties:

Mr Tom Peacock and Mrs Shona Peacock, 3 Easwald Bank, Kilbarchan, Renfrewshire, PA10 2AP (“the Applicant”)

Ms Louisa Blom, Flat 1/2, 23 Low Barholm, Kilbarchan, PA10 2ES (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Janine Green (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be determined without a Hearing and issued an Eviction Order against the Respondent.

Background

By application, received by the Tribunal on 5 November 2021. The Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”). The Ground relied on was Ground 5 of Schedule 3 to the Act, namely that a family member of the Applicant intends to live in the Property.

The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties, commencing on 27 March 2021 at a rent of £500 per month, and a Notice to Leave dated 2 August 2021, confirming that the Ground relied on was Ground 5 and advising the Respondent that no application for an Eviction Order would be made to the Tribunal before 4 November 2021. The Applicant stated that their eldest daughter intended to live in the Property full time and that it was not appropriate or possible for her to remain living in their current house due to overcrowding. They had a three bedroomed house and had four children in total. The Property had formerly been the family home.

On 25 November 2021, the Applicant provided the Tribunal with a letter from their daughter, Amelia Peacock, in which she stated her intention to move into the Property. She said that she was a second-year law student and was in a long-term relationship and that her current living arrangements did not afford her space to study and lead an adult lifestyle. She confirmed that the Property had been the family home and that it had been planned that she would return to it when it was suitable to do so.

On 9 February 2022, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 2 March 2022. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the morning of 28 March 2022. The Applicant was present. The Respondent was not present or represented. The Applicant stated that it was understood that the Respondent was in the process of vacating the Property but had not yet done so, asked the Tribunal to decide that the requirements of Ground 5 had been met and that it was reasonable to issue an Eviction Order.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to determine the application without a Hearing.

Ground 5 of Schedule 3 to the Act states that it is an Eviction Ground that a member of the landlord's family intends to live in the let property and that the Tribunal must find that Ground 5 applies if 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 and the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of that fact. A child of the landlord is a member of the landlord's family as defined in Ground 5.

The Tribunal was satisfied that the requirements of Ground 5 had been met and that the Applicant's daughter intended to live in the Property as her only or principal home and, having considered the statement from the Applicant's daughter as to her reasons for wishing to move into the Property, decided that it was reasonable to issue 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.

G Clark

Legal Member/Chair

28 March 2022

Date