



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/22/2562

Re: Property at 54 BAIRD AVENUE, AIRDRIE, ML6 6QP (“the Property”)

Parties:

Mr Paul McNiven, 16 Northburn Avenue, Airdrie, ML6 6QD (“the Applicant”)

**Miss Helen Tarditi, Mr Martin Tarditi, 54 BAIRD AVENUE, AIRDRIE, ML6 6QP;
54 BAIRD AVENUE, AIRDRIE, ML6 6QP (“the Respondents”)**

Tribunal Members:

Nicola Irvine (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondents from the property.
2. By decision dated 14 November 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Notice of Acceptance was intimated to the Applicant’s representative on 16 November 2022. The Tribunal intimated the application to the parties and advised them of the date, time and conference call details of today’s CMD. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the

procedure to have been fair. The Respondents were invited to make written representations by 6 January 2023. No written representations were received by the Tribunal.

The case management discussion

4. The CMD took place by conference call. The Applicant was represented by Miss Vikki McGuire and the Respondents were represented by Miss Claire Tarditi who is the daughter of the First Respondent and sister of the Second Respondent. The Respondents' representative explained that the Respondents have been making additional payments of £200 per month towards rent arrears. Notwithstanding that, the application for eviction is not opposed. The Respondents' representative has been in contact with the local authority regarding alternative accommodation, which is considered to be the best option for the respondents in the longer-term. The local authority has not made an offer of alternative accommodation to the Respondents but Miss Tarditi will be contacting them again after the CMD. The First Respondent is the full time carer for the Second Respondent. The Applicant's representative did not have an up to date rent statement and did not challenge the information given by the Respondents' representative. The Tribunal invited representations on superceding extract of an order, if an order were to be granted. The Respondents' representative invited the Tribunal to defer the execution of the order for a further 3 weeks to enable the Respondents to find alternative accommodation. The Applicant's representative did not oppose that.

Findings in Fact

5. The parties entered into a private residential tenancy which commenced 23 December 2019.
6. The Applicant served the Notice to Leave on the Respondents by recorded delivery on 13 June 2022.
7. As at the date of this CMD, the Respondents have been in arrears of rent for more than 3 consecutive months.

Reason for Decision

8. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Respondents were not opposed to the application on the basis of ground 12. The Respondent asked the Tribunal to defer the execution of the order for a further period of 3 weeks and the Applicant did not oppose that. The Tribunal was satisfied that ground 12 was established and that it was reasonable to grant the order evicting the Respondents from the property. On the Respondents' unopposed motion, the execution of the order is delayed for an additional 3 weeks. The order cannot be enforced before 7 April 2023.

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.

Nicola Irvine

14 February 2023

Legal Member/Chair

Date