

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 52 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/18/1273

Re: Property at 31 GFF Octavia Street, Kirkcaldy, KY2 5HH ("the Property")

Parties:

Mr Alister Winter, 12 Allan Street, Fife, KY6 3LA ("the Applicant")

Mr Adam Robertson, 31 GFF Octavia Street, Kirkcaldy, KY2 5HH ("the Respondent")

Tribunal Members:

Andrew McLaughlin (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that

- This matter called for a Case Management Discussion at Fife Voluntary Action, 16 East Fergus Place, Kirkcaldy on 11 September 2018 at 10am. The Applicant was present without representation. The Respondent was not present or represented.
- The Applicant invited the Tribunal to make an eviction order. The Tribunal noted that a Notice to Leave dated 13 April 2018 had been served on the Respondent requiring the Respondent to leave by 11 May 2018. It was identified that this Notice did not provide the Respondent with the requisite notice period of 28 days in respect of s54(2) of the Act. The Respondent was deemed to have received the Notice to Leave 48 hours after it was sent in respect of s62(5). The Notice to Leave was therefore, on the face of it, invalid as it did not provide the Respondent with sufficient notice.
- However s52(4) provides that the Tribunal may entertain an application for an eviction order notwithstanding that the terms of s54 have not been complied with if the Tribunal considers it reasonable to do so.

- The Tribunal noted that the Applicant emailed the Respondent on 11 May with a copy of the Notice to Leave. The Applicant also did not apply to the Tribunal until 21 May 2018. The Tribunal considered that it was reasonable to entertain the application notwithstanding the non-observance of s54 of the Act.
- The Tribunal therefore made the Eviction Order as sought.

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.

Andrew McLaughlin

Legal Member/Chair

Date

11/9/18