

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 51 of the Private Housing (Tenancies) (Scotland) Act 2016, (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/23/1679

Re: Property at 99 Thurso Crescent, Dundee, DD2 4AT (“the Property”)

Parties:

Mr Alexander Aimer, residing at 10 Milton Street, Dundee, DD3 6QQ (“the Applicant”); and

Miss Nikki Hume residing at 99 Thurso Crescent, Dundee, DD2 4AT (“the Respondent”); and

Dundee Law Centre, 163 Albert Street, Dundee, DD4 6PX (“the Respondent’s Representative”)

Tribunal Members:

**G McWilliams- Legal Member
L. Forrest - Ordinary Member**

Decision:

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines to grant the Application.

Background and Case Management Discussion 26th October 2023

1. This Application has been brought in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).

2. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call, at 2.00pm on 26th October 2023. The Applicant Mr Aimer and the Respondent’s Representative’s Ms C. Goodson attended.
3. Mr Aimer asked the Tribunal to grant an order for recovery of possession of the Property. He stated that his son, Aaron Aimer and his son’s partner and infant child wish to move into the Property as they do not have a permanent home. He acknowledged that if an order was made his son and family would not be able to occupy the Property, by way of enforcement of that order, for a period of some months given current, relevant legal regulations.
4. Ms Goodson referred to her written submission lodged with the Tribunal in advance of the CMD. She stated that Miss Hume has applied for alternative housing through the local authority. She said that whilst Miss Hume and her children, aged 6 and 7, are settled in the area local to the Property, Miss Hume understands Mr Aimer and his family’s position. Ms Goodson stated that she was not, and would not be, in a position to provide any further information or submissions regarding the Application and said that Miss Hume acknowledges the reasonableness of the Application.

Findings in Fact and Law

5. The parties have a tenancy agreement which began on 24th May 2019.
6. The Applicant Mr Aimer’s son, Aaron Aimer, and his son’s partner and infant child wish to move into the Property as they do not have a permanent home. They intend to reside in the Property.
7. The Respondent, Miss Hume, has applied for alternative housing through the local authority. Miss Hume understands Mr Aimer and his family’s position. She acknowledges the reasonableness of the Application.
8. The Ground upon which the Application proceeds, namely Ground 5 in Schedule 3 to the 2016 Act, is satisfied. Accordingly, the Application is granted.
9. Mr Aimer’s son and family are aware that they will not be able to occupy the Property for a period of 6 months from 26th October 2023, unless by earlier agreement with Miss Hume or change in/ revocation of the provisions of the Cost of Living (Tenant Protection) (Scotland) Act 2022.

Reasons for Decision

10. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) the Tribunal is to issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
11. Schedule 3 (5) (1) of the 2016 Act provides that it is an eviction ground that a member of the landlord’s family intends to live in the let property.

12. Accordingly, the Tribunal has jurisdiction in relation to claims by a landlord, such as the Applicant, for an eviction order in respect of a tenancy such as the tenancy agreement of the parties.

13. The Tribunal considered all of the written and oral submissions.

14. Having considered and weighed all of the evidence and taken account of Mr Aimer and Ms Goodson's submissions, the Tribunal found, on a balance of probabilities, that Mr Aimer's son, Aaron Aimer, and family, do not have a permanent home and have an intention to live in the Property. Mr Aimer's son and his partner have an infant child. Miss Hume, through her Representative's Ms Goodson, candidly said that she understands Aaron Aimer's family's position and acknowledges the reasonableness of the Application. She has applied to her local authority for alternative housing. Mr Aimer's son and family are aware that they will not be able to occupy the Property for a period of 6 months from 26th October 2023, unless by earlier agreement with Miss Hume or change in/revocation of current tenant protection legislation. In all the circumstances the Tribunal also found that it was reasonable for the order sought in the Application to be granted.

Decision

15. The Tribunal grants the Application.

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 McWilliams

Legal Member

_____ 26th October 2023
Date