



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/23/2685

Re: Property at 91B John Street, Penicuik, Midlothian, EH26 8AG (“the Property”)

Parties:

Mr Marcus Ballantine, 22 Martin Street, Edinburgh, EH17 8GB (“the Applicant”)

Mr David McEwan, Miss Leeanne Lyell, 91B John Street, Penicuik, Midlothian, EH26 8AG (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member) and Ann Moore (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 for an order to evict the Respondents from the property.
2. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 7 November 2023 informing both parties that a CMD had been assigned for 19 December 2023 at 2pm, which was to take place by conference call. 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 28 November 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 Mr Steven Murray. Both Respondents joined the conference call and represented themselves. The Applicant's representative explained that the Applicant owns two rental properties and intends to sell both of them. The Respondents explained that the First Respondent no longer lives in the property and the Second Respondent lives there with 4 children. Both Respondents are in employment. Neither of the Respondents opposed the application. The Second Respondent has been in touch with the local authority and has been advised that nothing can be done to rehome her unless and until an order for eviction is granted.

Findings in Fact

5. The parties entered into a private residential tenancy which commenced 17 April 2018.
6. The Applicant served Notice to Leave on the Respondents by email on 3 May 2023.
7. The Applicant intends to sell the let property.

Reason for Decision

8. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicant relied upon ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016. The Applicant produced documentation demonstrating that he intends to market the property for sale. The Respondents did not oppose the application for an eviction order. The Tribunal was satisfied that ground 1 had been established and that it was reasonable to grant the order 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.



19 December 2023
Date