



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/23/4526

Re: Property at Lauriston, Richmond Road, Ryhnie, AB54 4HJ (“the Property”)

Parties:

Captain James McIntosh, 167 North Parade, Sleaford, Lincolnshire, NG34 8AL (“the Applicant”)

Miss Tanya Metcalfe, Lauriston, Richmond Road, Ryhnie, AB54 4HJ (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted against the respondent

Introduction

This is an application under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The application seeks an eviction order.

Service of the proceedings and intimation of the Case Management Discussion (CMD) took place upon the respondent by Sheriff Officers on 23 April 2024.

The CMD took place by teleconference on 4 June 2024 at 2.00 pm. The applicant was represented by Mr Martin Kingdon of Peterkins Solicitors. The respondent joined personally and represented her own interests.

Findings and Reasons

The property is Lauriston, Richmond Road, Ryhnie AB54 4HJ. The applicant is Captain James McIntosh who is the heritable proprietor of the property and the registered landlord. The respondent is Miss Tanya Metcalfe who is the tenant.

The parties entered into a private residential tenancy in respect of the property which commenced on 24 November 2022. The rent was stipulated at £545 per month.

The applicant relies upon ground 4 contained within part 1, schedule 3 to the 2016 Act. This provides an eviction ground where the landlord intends to live in the let property. The relevant notice period under ground 4 at the time that the notice to leave was served was one of 84 days.

The notice to leave relied upon in this case is dated 15 September 2023 and stipulates that the earliest an application be submitted to the tribunal would be 11 December 2023. The notice to leave was served upon the respondent by email on the same day which is evidenced. The notice to leave is valid.

The applicant intends to take up residence in the let property. He is currently living in Lincolnshire. He has separated from his wife and intends to return to the let property where he was brought up and has family ties. The tribunal was satisfied on the basis of the credible and reliable written evidence produced that it is the applicant's genuine intention to live in the let property. The respondent does not dispute the applicant's intentions.

The tribunal proceeded to consider the issue of reasonableness on the making of an eviction order. The tribunal weighed up the respective circumstances and needs of the parties.

The respondent is unemployed. She lives with her 16 year old son who is her carer. She is wheelchair bound. The let property does not suit her needs. The bath is not independently accessible and the respondent has to be carried in and out of the house due to steps.

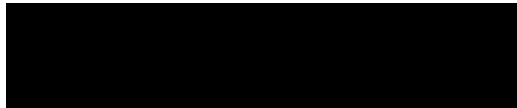
A relevant section 11 notice has been issued to the relevant local authority. The tribunal was satisfied that that the respondent will be provided with alternate accommodation in the event of an eviction order being made. The local authority have a statutory duty to do so.

Weighing up the respective circumstances of the parties, the tribunal concluded that it was reasonable to grant the eviction order.

The Tribunal extended the period by which any eviction can be carried out to 31 July 2024 to assist the respondent in making alternative arrangements for housing.

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.



Legal Member/Chair

4 June 2024

Date