



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/24/1003

Property : 1/2, 33 Cochran Street, Paisley PA1 1JY (“Property”)

Parties:

Linda Gaffin, 0/2, 387 Calder Street, Glasgow (“Applicant”)

Halwes Rasuli, 1/2, 33 Cochran Street, Paisley PA1 1JY (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined to make an order for possession of the Property.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Tenancy Agreement which commenced on 6 February 2022; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 16 October 2023 ("Notice to Leave"); copy email from the Applicant to the Respondent dated 16 October 2023 attaching the Notice to Leave; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 28 February 2024; a copy sales agreement with an agency based in Spain regarding the sale of a property in Murcia and sheriff officer's execution of service certifying service of the Application on 19 June 2024. On 9 July 2024 the Applicant lodged a written representation.

Case Management Discussion

A case management discussion (“CMD”) took place before the Tribunal on 19 July 2024 by teleconference. The Applicant was in attendance. There was no appearance by or on behalf of the Respondent.

The Applicant told the Tribunal that the Applicant intends to live in the Property. She said she had been resident in Spain for some time and had sold her property there as at 29 April 2024. She said she had moved back to the UK on 26 April 2024. The Applicant told the Tribunal she owned one other rental property which she was in the process of selling. She said that the Respondent lived in the Property with his wife and there were no children in the Property. She said the Respondent stopped paying the rent when the Notice to Leave was served. She said she had to raise proceedings for recovery of the rent which was then paid. She said the arrears are currently £600. The Applicant said she had spoken to the Respondent a couple of weeks ago but she did not know what he was doing to find alternative accommodation. She said she was not aware of the Respondent being in receipt of benefits. She said she understood he had been employed at a car wash and then in a shop.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property which commenced on 6 February 2022.
2. A Notice to Leave was served on the Respondent by email on 16 October 2023. It stated that an application for an eviction order would not be submitted to the Tribunal before 11 January 2024.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 28 February 2024.
4. The Applicant intends to live in the Property.

Reasons for the Decision

In terms of section 51 of the Act, the Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 4 which is that the landlord intends to live in the Property. The evidence lodged with the application of intention to live in the Property was an agreement entered into by the Applicant with a sales agency regarding the sale of her property in Spain, the written representations made in the Application and the written representation lodged on 9 July 2024.

The Tribunal considered the evidence provided along with the submissions of the Applicant made at the CMD and determined that the ground for eviction had been established. The Tribunal considered the question of reasonableness and, in the

absence of a submission from the Respondent, determined that it was reasonable to grant an order for eviction

Decision

The Tribunal determined to grant an order for possession of the Property.

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.

J Devine

**Joan Devine
Legal Member**

Date : 19 July 2024