



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/23/4660

Re: Property at Flat 3/2, 28 Albert Road, Glasgow, G42 8DN (“the Property”)

Parties:

Miss Zakira Hussain, 28 Cairngorm Road, Glasgow, G43 2XA (“the Applicant”)

Miss Mihaela Covaciu, whose present whereabouts are unknown (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and dismissed the application.

1. By application, dated 22 December 2023, the Applicant sought an Order for Possession of the Property under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Grounds relied on were Grounds 1, 11, 12, 12A and 14 of Schedule 3 to the 2016 Act. The application under Ground 1 was, however, subsequently withdrawn.
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties, commencing on 8 July 2023 at a monthly rent of £650, and a Notice to Leave, dated 24 October 2023, advising the Respondent that the Applicant was seeking an Eviction Order under Grounds 1, 11, 12, 12A and 14 of Schedule 3 to the 2016 Act and that an application to the Tribunal would not be made before 21 November 2023. The application also included a Rent Statement showing arrears at 20 December 2023 of £5,850. The Rent Statement indicated that no rent had been paid since 18 March 2023. The application included an allegation in relation to anti-social behaviour as defined in Ground 14 of Schedule 3 to the 2016 Act but no

supporting evidence, apart from an email from the Applicant to the Tribunal stating that the Police had been called to the Property on one occasion, was offered. The Applicant provided photographs which appeared to show a double bed and an additional sleeping bag in the living room of the Property and sleeping facilities for up to five persons in the bedrooms. The beds were all made up. Her contention under Ground 11 was that the Respondent had breached the terms of the Tenancy Agreement by permitting between 10 and 12 people to live in the Property. The Applicant also provided evidence by way of letters from her mortgage lenders and their solicitors between November 2023 and February 2024 regarding mortgage arrears and a Calling-up Notice of the Standard Security in favour of her mortgage lenders, as well as documentation in relation to legal action taken against her by the property factors seeking to recover arrears of factoring charges.

3. The Applicant subsequently provided a further Rent Statement showing arrears at 18 January 2024 of £6,500.
4. On 26 July 2024, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 16 August 2024. As the whereabouts of the Respondent are unknown, service was effected by Advertisement on the Tribunal's website from 15 August 2024 until 29 August 2024. The sheriff officers who tried to serve the application on the Respondent at the Property reported that a neighbour had advised them that the Property had been empty for several months and that it appeared to have been sold.
5. On 22 August 2024, the Applicant advised the Tribunal that she has had no contact with the Respondent since the application was made and that the Property has now been sold.

Case Management Discussion

6. A Case Management Discussion was held by means of a telephone conference call on the afternoon of 29 August 2024. Neither Party was present or represented.

Reasons for Decision

7. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Regulations") provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.
8. The Tribunal noted that the Applicant had not attended, and was not represented at, the Case Management Discussion. The evidence before the Tribunal indicated that the Respondent is no longer living at the Property and that it has been sold. The Applicant confirmed on 22 August 2024 that it has been sold. Accordingly, it appeared to the Tribunal that there was no reason that the Applicant would now require an Eviction Order and, with neither Party

having attended the Case Management Discussion, the Tribunal decided that the application should be dismissed. The Applicant did not formally withdraw the application, but the right to request Recall of the Tribunal's Decision in terms of Regulation 30 of the 2017 Regulations remains open for 14 days from the date of this Decision.

9. The Tribunal's Decision was unanimous.

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.



George Clark
Legal Member/Chair

Date 29 August 2024