



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/24/0708

Re: Property at 26F Bradan Road, Troon, KA10 6DS (“the Property”)

Parties:

Miss Catriona Stewart, 6A Dornal Drive, Troon, KA10 7JZ (“the Applicant”)

Miss Samantha Gallagher, 26F Bradan Road, Troon, KA10 6DS (“the Respondent”)

Tribunal Members:

Lesley-Anne Mulholland (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to make an Order for Possession in favour of the Applicant against the Respondent.

1. This is an application under Section 51 of the Private Housing (Scotland) Act 2016 for an Order for Possession under part 1A of Schedule 3.
2. The Applicant is the owner and Landlady of the property. The Respondent is the Tenant. They entered into a tenancy agreement on 23 December 2022. The tenancy agreement specifies that £525 is due in respect of rent each calendar month, payable in advance.
3. The Applicant wishes to recover the property to sell it to alleviate financial hardship.
4. A two-member Case Management Discussion took place at 11.30 am on 19 August 2024 by teleconference. The Applicant joined the hearing.
5. The Respondent has failed to engage with the application. We waited until; 1140am and then decided to continue with the discussion in her absence after satisfying ourselves that the papers had been properly served on the Respondent and that she was notified of today’s CMD.

6. Miss Stewart informed us she has accrued more than £7,000 in mortgage arrears for the property. She lives with her husband and has a mortgage of their own. She is working full time and the stress of trying to recover the property has caused her to have to take time off work. Miss Stewart has provided bank statements and a mortgage account statement in support of her account.
7. The Applicant served notice on the Respondent in November 2023. The day before she was due to move out, the Respondent, informed her that she had sought advice and would wait until an order was granted before she would do so.
8. The Applicant understands that the Respondent has mental health issues and is cared for by her seven-year-old daughter. She moved into the property after fleeing domestic violence from another area. She has rent arrears of £2,700 which has caused or contributed to the mortgage going into arrears.
9. We were satisfied that there was sufficient information before us to make a decision. Having considered all of the information, individually and together, we decided to make an Order for Possession. It was reasonable to do so as we were satisfied that the Applicant has substantial mortgage arrears and needs to sell the property to alleviate financial hardship.
10. The Respondent has not engaged with the application in any way and therefore there is no contradictor. We were satisfied that the Respondent has accrued substantial rent arrears and has made no real attempt to clear or reduce the arrears causing the Applicant to fall into financial hardship.
11. The Local Authority has a statutory duty to provide temporary accommodation to the Respondent. She has been served with the notice to the Local Authority to allow her to pursue this matter.
12. Accordingly, an Order for Possession is made.

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.

L-A Mulholland

Legal Member/Chair

Date 19 August 2024