



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

Reference number: FTS/HPC/EV/24/0257

Order granted on 14 October 2024.

Re: Property at 154 Avontoun Park, Linlithgow, EH49 6QH (“the Property”)

Parties:

Leeann McLaren, residing at 89 Acredales, Linlithgow, West Lothian EH49 6JA (“the Applicants”)

Mr Robert Edwards, residing at 154 Avontoun Park, Linlithgow, EH49 6QH (“the Respondent”)

Tribunal Members:

**Paul Doyle (Legal Member)
Mary Lyden (Ordinary member)**

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order against the first respondent for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 1A of schedule 3 to the 2016 Act.

Background

1. The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicants lodged with the Tribunal Form E dated 17/01/2024. The documents produced were a Tenancy Agreement dated 09/06/2022; a notice to leave served on 11/10/2023, a Notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 and a schedule of unpaid rental. A copy land certificate was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

2. By interlocutor dated 30/05/2024, the application was referred to this tribunal. On 06/09/2024 the First-tier Tribunal for Scotland (Housing and Property Chamber) served notice of referral on both parties, directing the parties to make any further written representations. No further representations were received from the respondent. The applicant's solicitor submitted further representations on 10/06/2024.

Case Management Discussion

3. A case management discussion took place by telephone conference at 2.00pm on 14 October 2024. The Applicant was represented by Ms A O'Rourke, of Belvoir, property managers. The Respondent was present and unrepresented. The Respondent told us that he does not oppose the application.

Findings in Fact

4. The Tribunal made the following findings in fact:

(i) The Applicant and the Respondent entered into a Private Residential Tenancy Agreement for the Property on 09/06/2022.

(ii) The Applicant has separated from her former partner. She and her former partner owned the house they lived in jointly. As part of a separation agreement, the applicant has to pay her former partner £35,000 for a transfer of title of the former matrimonial home.

(iii) The applicant has to sell the property occupied by the respondent to raise sufficient funds to secure the transfer of title of the former matrimonial home. She has no other access to funds.

(iv) The Respondent lives alone in the property. The Local Authority are willing to offer alternative accommodation to the Respondent,

(v) The Respondent lives with anxiety and depression. This application and the uncertainty about his future housing have presented challenges to his mood and mental health. He is an otherwise healthy, 57 year old, single man with no dependents.

(vi) The Respondent does not resist the application for repossession.

(vii) On 11/10/2023 the applicant served a notice to leave on the respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. A section 11 notice was served on both the respondent and the local authority by the applicant. On 17/01/2024, the applicant submitted an application to the tribunal.

Reasons for the Decision

5. The Applicant seeks recovery of possession of the Property in terms of Ground 1A of schedule 3 to the 2016 Act. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

6. The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in in terms of Ground 1A of schedule 3 to the 2016 Act are established.

7. The Respondent offers no resistance to the application. In all the circumstances, it is reasonable to grant an order for possession.

8. For these reasons, the Tribunal determined to grant an Order for possession.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property against the first in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 1A of schedule 3 to the 2016 Act.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Legal Member: *Paul Doyle*

Date: 14 October 2024