



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/24/2408

Re: Property at 11 Walker Terrace, Tillicoultry, Clackmannanshire, FK13 6EF (“the Property”)

Parties:

Mr G. Douglas Copland and Mrs Meredith Copland, 15 Stirling Street, Tillicoultry, Clackmannanshire, FK13 6EA (“the Applicants”)

Mr Ross Miller and Ms Katrina Kerr, 11 Walker Terrace, Tillicoultry, Clackmannanshire, FK13 6EF (“the Respondents”)

Tribunal Members:

Gillian Buchanan (Legal Member) and Helen Barclay (Ordinary Member)

Decision

At the Case Management Discussion (“CMD”), which took place by telephone conference on 23 October 2024, the Applicants and the Respondents were all present.

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:-

Background

The Tribunal noted the following background:-

- i. The Applicants are the heritable proprietors of the Property.
- ii. The Applicants leased the Property to the Respondents in terms of a Private Residential Tenancy Agreement (“the PRT”) that commenced 3 October 2022.
- iii. The rent payable in terms of the PRT is £675 per calendar month.
- iv. The deposit payable in terms of the PRT is £675.
- v. On 9 October 2023, the Applicants served on the Respondents by a Notice to Leave requiring the Respondent remove from the Property by 9 February 2024 on the basis that the Respondents had breached a term of the PRT and had engaged in relevant anti-social behaviour.

- vi. The Applicants have served on Clackmannanshire Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the CMD the Applicants confirmed they were still seeking an eviction order in their favour.

The Second Respondent stated that she had moved out of the Property on Saturday 19 October 2024. She retained her keys meantime and still has possessions within the Property. She referred to having paid the deposit. Ultimately she agreed that, having vacated the Property, there was no reason why an eviction order could not be granted against her.

The First Respondent stated that he continues to live in the Property with his 11 year old daughter. He said there were inaccuracies in the application. He did not know if he could oppose an eviction order being granted but needed to move on. He said he had spoken to Clackmannanshire Council about alternative accommodation but they could not do anything for him until an eviction order had been granted. The Social Work Department were involved as well. The First Respondent said he could never get another property in the private sector and that he has had his name on a waiting list with a housing association for a larger property for some time but only needed a 2 bedroomed property now.

The First Respondent said his conduct was in reaction to actions of the Applicants. He said some of the allegations were malicious and made up. Both sides were "guilty". He is now seeing a doctor and a mental health nurse at the practice. He said he had also been on medication for the last couple of weeks.

The First Respondent said it was difficult to get time off work to attend the Citizens Advice Bureau for help but social services had been supportive. He said it would be difficult to keep and heat the Property over the winter as it has single glazing. However, his rent is up to date and the Property immaculate.

The First Respondent acknowledged that the granting of an eviction order would help him secure alternative accommodation. He said he would consent to an eviction order being granted but needed a couple of months to find somewhere else to go.

The Applicants were unaware prior to the CMD that the Second Respondent had moved out of the Property. They were content to agree to the enforcement of an eviction order being suspended and had no desire to cause additional hardship.

The Tribunal adjourned to consider the application and the parties' oral submissions.

Reasons for Decision

The Respondents in their respective submissions at the CMD confirmed that they do not oppose the grant of an eviction order. The Second Respondent has moved out anyway. The First Respondent, however, asked for additional time to find alternative accommodation. The Applicants had no difficulty with the enforcement of an eviction order being suspended.

In the circumstances the Tribunal determined to grant an eviction order in favour of the Applicants.

Having reached the decision to grant an eviction order the Tribunal carefully considered whether to delay the execution of the eviction order in terms of Rule 16A(d) of the First-tier Tribunal Housing and Property Chamber Rules of Procedure 2017. The Tribunal concluded

that it is reasonable to provide the First Respondent with an extended period of time to secure alternative accommodation. Accordingly, the Tribunal determined that the order cannot be enforced for a period of 3 months.

Decision

The Tribunal granted an eviction order against the Respondent in favour of the Applicant with execution of that order delayed until 12noon on 24 January 2025.

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.

Gillian Buchanan

Legal Member/Chair

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23 October 2024

Date