



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/24/3383

Property : 8/3 Blandfield, Edinburgh EH7 4QJ (“Property”)

Parties:

Craigsco Ltd, 19 Kinloch Drive, Glenrothes, Fife KY7 4DD (“Applicant”)

Maysym Kuczynski, present whereabouts unknown (“First Respondent”)

Damian Drzewiecki, present whereabouts unknown (“Second Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Frances Wood (Ordinary Member)

Decision

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

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: a Tenancy Agreement which commenced on 20 November 2020 (“Tenancy Agreement”); Notice to Leave addressed to the First Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 (“Act”) dated 25 April 2024 (“First Notice to Leave”); Notice to Leave addressed to the Second Respondent under Section 50(1)(a) of the Act dated 16 May 2024 (“Second Notice to Leave”); sheriff officer certificate of service evidencing service of the First Notice to Leave on 25 April 2025; sheriff officer certificate of service evidencing service of the Second Notice to Leave on 16 May 2024; statement of rent arrears; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering letter dated 24 July 2024; form F and form G lodged by third parties referring to deposits paid for occupying the Property and communications from Edinburgh City Council regarding the possible sub-letting of the Property. The Application was served on the Respondent by advertisement on the Tribunal website between 27 February 2025 and 31 March 2025.

Case Management Discussion (“CMD”)

A CMD took place before the Tribunal on 31 March 2025 by teleconference. The Applicant was represented by Rosie Seaward of the Applicant’s Representative. There was no appearance by or on behalf of either Respondent. Ms Seaward told the Tribunal that attempts to identify an address for the Respondents had been unsuccessful. She said that the Applicant was concerned that the Respondents had sub-let the Property without permission. She referred to the applications made to the Tribunal by third parties referring to deposits paid for occupancy of the Property. She said that sheriff officers had interviewed neighbours who referred to a lot of people entering and leaving the Property.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the First and Second Respondent entered into a Tenancy Agreement which commenced on 20 November 2020.
2. The First Notice to Leave was served by sheriff officer on 25 April 2024.
3. The Second Notice to Leave was served by sheriff officer on 16 May 2024.
4. At the date of service of the First and the Second Notice to Leave and the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months.
5. Enquiries made on behalf of the Applicant indicated that the First and Second Respondent were no longer occupying the Property as their only or principal home.
6. Enquiries made on behalf of the Applicant indicated that the First and Second Respondent had sub-let the Property to third parties without the permission of the Applicant in breach of the Tenancy Agreement.
7. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 24 July 2024.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51 of the Act, the First-tier Tribunal may 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 First and Second Notice to Leave the Applicant stated that they sought

recovery of possession of the Property on the basis set out in grounds 10, 11 and 12 which are that the tenant is no longer occupying the Property as their only or principal home; that the tenant has failed to comply with an obligation under the tenancy and that the tenant has been in rent arrears for three or more consecutive months.

The submission made on behalf of the Applicant was that sheriff officer's inquiries indicated the Respondents were no longer occupying the Property as their only or principal home. The Tribunal determined that ground 10 had been established. The submission made on behalf of the Applicant was that sheriff officer's inquiries indicated that third parties were occupying the Property. This was supported by the form F and form G lodged by third parties referring to deposits paid for occupying the Property and communications from Edinburgh City Council. Subletting the Property without consent was a breach of clause 12 of the Tenancy Agreement. The Tribunal determined that ground 11 had been established. The Tribunal considered the statement of rent arrears provided and determined that ground 12 had been established.

Having considered all of the circumstances, and in the absence of a submission from the Respondents, the Tribunal determined that it was reasonable to issue an eviction order.

Decision

The Tribunal grants 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.

Joan Devine

Legal Member

Date: 31 March 2025