

Housing and Property Chamber
First-tier Tribunal for Scotland



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/24/3247

Property : 23 Harmetray Street, Milton, Glasgow G22 7RZ (“Property”)

Parties:

Michael Knight, 21 Harmetray Street, Milton, Glasgow G22 7RZ (“Applicant”)

Paula Howe, 23 Harmetray Street, Milton, Glasgow G22 7RZ (“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 make an order for possession of the Property.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Tenancy Agreement which commenced on 29 January 2019; Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 14 April 2024 ("Notice to Leave"); copy email from the Applicant to the Respondent attaching the Notice to Leave dated 14 April 2024; copy contract with Jim Knight Brickwork Ltd dated 7 March 2024; and notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 26 September 2024. A Case Management Discussion (“CMD”) was fixed for 29 April 2025. The Application was served on the Respondent by sheriff officer on 13 March 2025. In response to a query from the Tribunal, by email dated 16 April 2025 the Applicant told the Tribunal that the Notice to Leave was also served by him personally on the Respondent.

Case Management Discussion

A CMD took place before the Tribunal on 29 April 2025 by teleconference. The Applicant and the Respondent were both in attendance.

Ms Howe told the tribunal that she lives in the Property with her 22 year old son who has learning disabilities and her 13 year old son who has autism. She said that she is not working. She said she receives PIP for her older son. She said the Property has not been adapted in any way. Ms Howe said that the Property is in need of repairs and she could not stay in the Property while the work is being carried out. She said that her son with autism could not cope with the disruption to his routine. She said she has explained to him that they will need to move out of the Property. She said her 13 year old son attends a school for children with special needs and is picked up by bus to travel there. Ms Howe said she was in touch with the local authority regarding alternative accommodation and they had said they could not act until an eviction order was granted. She said they had told her she may initially be housed in temporary accommodation. She said her son with autism could cope with temporary accommodation.

Mr Knight told the tribunal he acquired the Property in 2012. He said it had always been a rental property. He said he owned one other property via a limited company which was a holiday let. He said that the Property was in need of refurbishment. He said he was concerned about the wiring which had not been replaced since the 1980s. He said there was a current EICR but the electrician had told him the wiring should really be replaced. Mr Knight said that if an order was granted he would obtain an updated quote from Jim Knight Brickwork Ltd who had said they should be able to start work within 3-4 weeks. He said he could carry out the strip out works himself. He said the works would take 3-4 months.

Ms Howe told the Tribunal she knows that the works need done and she has prepared her son for a move. She said the local authority had told her to telephone them once she knew the outcome of the CMD.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property which commenced on 29 January 2019.
2. A Notice to Leave was served on the Respondent by email on 14 April 2024. It stated that an application for an eviction order would not be submitted to the Tribunal before 10 July 2024.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.
4. The Applicant intends to carry out significantly disruptive works to the Property.

5. It would be impracticable for the Respondent to continue to occupy the Property given the nature of the refurbishment intended by the Applicant.

Reasons for the Decision

In terms of section 51 of the Act, the Tribunal is to 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 Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 3 which is that the landlord intends to refurbish the Property. The evidence lodged with the application of intention to refurbish was a copy contract with Jim Knight Brickwork Ltd dated 7 March 2024 which detailed extensive works to be carried out to the Property. The Respondent had told the Tribunal that she agreed that the works required to be undertaken. The Tribunal considered the evidence provided and determined that the ground for eviction had been established.

The Tribunal considered the question of reasonableness. The Respondent had told the Tribunal that she accepted the works required to be carried out and it would not be possible for her and her sons to remain in the Property while the work was being done. She told the Tribunal she had prepared her son with autism for the disruption of a move and she felt he could cope with temporary accommodation if that was necessary. In the circumstances, the Tribunal determined that it was reasonable to grant an order for possession of the Property.

Decision

The Tribunal determined to grant 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.