

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 11(1) of the Rent (Scotland) Act 1984 (Act)

Chamber Ref: FTS/HPC/EV/20/0156

Re: Property at 77 Pilton Avenue, Edinburgh, EH5 2HR ("the Property")

Parties:

MacTaggart & Mickel Homes Limited, Atlantic Quay, 1 Roberston Street, Glasgow, G2 8JB ("the Applicant")

Mr Eddie Spence, 77 Pilton Avenue, Edinburgh, EH5 2HR ("the Respondent")

Tribunal Members:

Alan Strain (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the order for recovery of possession and eviction be granted.

Background

This is an application for recovery of possession and eviction under section 11(1) of the Act and Rule 77 of the Tribunal Procedure Rules. The Applicant asserts that possession should be recovered under Case 3 of Part 1 of Schedule 2 to the Act.

The Tribunal had regard to the following documents:

1. Application received 16 January 2020;
2. Section 11 Notice;
3. DJ Alexander Inspection Report dated 6 August 2018;
4. Letter from DJ Alexander to Respondent dated 27 November 2019;
5. Photos of Property dated 16 December 2019;
6. Letter from Applicant's agents to Respondent dated 27 December 2019 together with Sheriff Officer Certificate of Service dated 31 December 2019;

7. Sheriff Officer Certificate of Service of Tribunal CMD Notification dated 18 February 2020.

Case Management Discussion (CMD)

The Applicant did not appear but was represented by its Solicitor. The Respondent did not appear and was not represented.

The Tribunal was satisfied that the Respondent had received notification of the CMD by virtue of the Sheriff Officer's Certificate of Service. The Respondent was accordingly aware that the Tribunal could proceed in his absence and could make a decision if satisfied that it had sufficient information to do so and the procedure was fair.

The Tribunal then heard from the Applicant's Solicitor who invited the Tribunal to determine the matter on the papers.

The Tribunal considered the terms of section 11(1) of the Act and Case 3 of Part 1 to Schedule 2 of the Act. The Tribunal could make an order for recovery of possession if it considered it reasonable to do so and was satisfied that there would be alternative accommodation available for the Respondent when the order takes effect or the circumstances in any of the Cases in Part 1 of Schedule 2 to the Act are as specified.

Case 3 concerns the deterioration of the Property due to the neglect or default of the Respondent.

The Tribunal considered it had sufficient information upon which to make the following findings in fact:

1. The Respondent leases the Property from the Applicant on an unwritten protected tenancy under section 1 of the Act;
2. The Respondent has failed to give the Applicant access to conduct necessary repairs;
3. The Respondent has failed to keep the Property in a reasonable condition;
4. Section 11 notification has been given to the local authority;
5. The Respondent has been served with notification of the application for eviction on 31 December 2019;
6. The Respondent was served with notification of the CMD on 18 February 2020.

The Tribunal considered that it had sufficient information upon which to make a decision and that the procedure was fair. The Tribunal determined that the requirements of section 11(1) and Case 3 of Part 1 to Schedule 2 of the Act were satisfied and that it was reasonable to grant the order sought.

The Tribunal accordingly granted the order for eviction and recovery of possession as sought.

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.

Mr Alan Strain

17 March 2020

Legal Member/Chair

Date