



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 (“The Act”)

Chamber Ref: FTS/HPC/EV/21/1780

Re: Property at 80 Armadale Road, Whitburn, EH47 0EY (“the Property”)

Parties:

Tom Brown, Mrs Tammy Wood, 1 Hallcraigs, Kirknewton, EH27 8BF (“the Applicant”)

Angela Glasgow, Mr Michael Lambe, Unknown; 80 Armadale Road, Whitburn, EH47 0EY (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

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

Background

The Applicants seek an Eviction Order on the basis of Ground 4 of Schedule 3 of the Act in that the First Applicant, Mr Tom Brown wishes to reside in the Property following on from his separation from the Second Applicant. The Application provides a copy of the Tenancy and the Notice to Leave said to have been posted through the door of the Property of 14 April 2021.

The Second Respondent, Mr Michael Lamb had received service of the Application and information about how to join the conference call by Sheriff Officers. The whereabouts

of the First Respondent were unknown however and service was supposed to be effected on Ms Glasgow by advertisement in advance of the Case Management Discussion (CMD) scheduled to take place by conference call at 10 am on 30 November 2021.

The Case Management Discussion

When the CMD convened at the appointed time, both Applicants and Mr Michael Lambe were present. Mr Lambe indicated that he had no objection to the Application and had only not moved out the Property because the Council had told him he would not be offered alternative accommodation until an Eviction Order was made. He confirmed that he understood the Application to be based on a genuine desire on the part of Mr Brown to move back in following on from his separation from Mrs Wood. Mr Lambe also confirmed having received the Notice to Leave.

The Tribunal considered the initial difficulty of the lack of formal service on Angela Glasgow. The Tribunal noted that it appeared that Ms Glasgow had moved out of the Property in July 2020 and had confirmed this by text message to Mrs Wood. The Tribunal were able to see these messages which Mrs Wood submitted to the Tribunal during an adjournment.

The Tribunal was considering whether in light of the facts that Ms Glasgow had left the Property over a year ago, returned her keys and long since stopped paying the rent, whether she should actually be removed as a Respondent meaning that the lack of service of the Application on her would not be an issue. Helpfully though and during an adjournment to consider the matter, Mr Lambe was able to contact Ms Glasgow who then joined the call.

The Tribunal explained to Ms Glasgow who was present on the call and what the Application related to. Ms Glasgow confirmed that she did not wish any further time for legal advice or to read all the paperwork because she was happy to confirm that she wanted nothing to do with the Property and had indeed moved out. She also explicitly informed the Tribunal she had no issue with the Tribunal granting the Eviction Order.

The Tribunal carefully considered the reasonableness or otherwise of granting the order having heard the whole circumstances of the situation from parties.

Having heard from parties the Tribunal made the following findings in fact.

- Findings in Fact

- I. *The Parties entered into a tenancy at the Property which commenced on 28 August 2019;*

- II. *The Applicants were the landlords and the Respondents were the tenants;*
- III. *Angela Glasgow and Michael Lambe separated in July 2020 when Ms Glasgow left the Property;*
- IV. *The Applicants have separated and Mr Brown wishes to move back into the Property;*
- V. *The Applicants served a Notice to Leave on the basis of Ground 4 of Schedule 3 to the Act on 14 April 2021.*
- VI. *The Notice to Leave provided the requisite period of notice before bringing this Application;*
- VII. *The Applicants have provided the local authority with the relevant notice under S 11 of the Homelessness Etc. (Scotland) Act 2003;*
- VIII. *It is reasonable that the Eviction Order is granted.*

Reasons for Decision

Having made the above findings in fact, the Tribunal granted the Eviction Order.

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.

Andrew McLaughlin

Legal Member/Chair

30 November 2021

Date