



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/20/2074

Re: Property at 27 Broughton Road, Summerston, Glasgow, G23 5HL (“the Property”)

Parties:

Mr Gary Murray, 55 Glenberrie Place, Glasgow, G23 5QF (“the Applicant”)

Miss Jacqueline McGrath, 27 Broughton Road, Summerston, Glasgow, G23 5HL (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent in favour of the Applicant.

Background

1. By application dated 30 September 2020 the Applicant seeks an eviction order in terms of Section 51 of the Private Housing Tenancies (Scotland) Act 2016 (“the 2016 Act”). Documents lodged in support of the application include a copy private residential tenancy agreement, Notice to Leave with copy post office receipt and Royal Mail track and trace report , letter from the Applicant and Notice to the Local Authority in terms of Section 11 of the Homelessness etc (Scotland) Act 2003. The application is based on ground 4 of schedule 3, landlord intends to live in the let property.
2. The application was served on the respondent by Sheriff Officer on 28 October 2020. Both parties were notified that a case management discussion (“CMD”) would take place by telephone case conference on 1 December 2020 at 2pm

and that they were required to participate.

3. The case called for a CMD on 1 December 2020 at 2pm. The Applicant participated. The Respondent did not participate and was not represented.

Case Management Discussion

4. Mr Murray advised the Legal Member that the Respondent remains in occupation of the property. The last contact with her was about 6 weeks ago when she told him that she was not prepared to move out. Since then she has changed her mobile number. Mr Murray advised the Legal Member that the Respondent has been a problem tenant since the beginning of the tenancy. There have been several floods from the property. When he has attended at the property to deal with these, he has noted that she appears to have tampered with the system. There has been other damage to the property. There have been numerous complaints from the neighbours. In addition, the Respondent has contacted him by phone and text on many occasions, sometimes in the middle of the night. The situation has caused him and his wife considerable stress and has led to the breakdown of their marriage. He now requires somewhere else to live. He has other properties, but all are occupied by tenants. He advised the Legal Member that he intends to live at the property for at least three months following the eviction.

Findings in Fact

5. The Applicant is the owner and landlord of the property.
6. The Respondent is the tenant of the property in terms of a private residential tenancy agreement.
7. The Applicant intends to live at the property for at least three months.

Reasons for Decision

8. The tenancy is a private residential tenancy which started on 19 March 2020. The application to the Tribunal was submitted with an unsigned and undated Notice to Leave. The Applicant also submitted a copy post office receipt and Royal Mail track and trace report which establish that the Notice was posted on 23 June 2020 and delivered on 24 June 2020. The Notice states that an application to the Tribunal is to be made on ground 4, landlord intends to live in the let property. Part 4 of the notice indicates that the earliest date that an application to the Tribunal can be made is 26 September 2020. The application to the Tribunal was made after expiry of the notice period. The Legal Member is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act, as amended by the Coronavirus (Scotland) Act 2020 ("the 2020 Act"). The Applicant also submitted a copy of the Section 11 Notice and evidence that

it was sent to the Local Authority by email. The Legal Member is satisfied that the Applicant has complied with Section 56 of the 2016 Act.

9. Section 51(1) of the 2016 Act states, “ The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.” Ground 4 of Schedule 3 (as amended by the 2020 Act) states “(1) It is an eviction ground that the landlord intends to live in the let property. (2) The First-tier Tribunal may find that the ground named by subparagraph (1) applies if (a) the landlord intends to occupy the let property as the landlords only or principal home for at least 3 months, and (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.”
10. The Respondent did not participate in the CMD and did not lodge any written representations which dispute the information provided by the Applicant. From the application and the information provided by the Applicant at the CMD, the Legal Member is satisfied that the Applicant requires somewhere to live following the breakdown of his marriage. The Legal Member also notes that the Respondent’s behaviour toward the Applicant during the tenancy appears to have contributed to his present circumstances. The Legal Member is therefore satisfied that the Applicant intends to occupy the let property as his only or principal home for at least three months and that it would be reasonable to grant an eviction order on account of that fact. The Legal Member therefore concludes that the eviction ground has been established.
11. As the Applicant has complied with the requirements of the 2016 Act, and as the eviction ground has been established, the Legal Member determines that an eviction order should be granted.

Decision

12. The Legal Member determines that an eviction order should be granted against the Respondent.

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.

Josephine Bonnar