

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (Act)

Chamber Ref: FTS/HPC/EV/18/2929

Re: Property at 2B Hill Street, Dundee, DD3 6RR (“the Property”)

Parties:

Mr Ghazi Khan, C/O Lexy Group, 29A North William Street, Dundee, DD3 7DB (“the Applicant”)

Miss Nicole Collins, 2B Hill Street, Dundee, DD3 6RR (“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 eviction and recovery of possession be granted

Background

This is an application under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 for eviction and recovery of possession under Ground 4 of Schedule 3 to the Act..

The Tribunal had regard to the following documents:

1. Application dated 27 October 2018;
2. Tenancy Agreement dated 20 July 2018;
3. Notice to Leave dated 18 September 2018;
4. Proof of Service;
5. Letter from Applicant dated 19 September 2018;
6. Section 11 Notice; and
7. Sheriff Officer Certificate of Service of Notification of CMD dated 20 December 2018.

A Strain

Case Management Discussion (CMD)

The case called for a CMD on 14 January 2019. The Applicant was not present but was represented by Mr Campbell, Solicitor. The Respondent was not present or represented.

The Tribunal were satisfied that the Respondent had notification of the CMD by virtue of Sheriff Officers certificate of service dated 20 December 2018. The notification also advised the Respondent that the Tribunal could make a decision in her absence at the CMD if it were satisfied on the evidence before it and that it was fair to do so.

So far as material the Tribunal made the following findings in fact:

1. The Parties had entered in to a Tenancy Agreement dated 20 July 2018;
2. The monthly rent was £366.90;
3. Notice to Leave had been served by recorded delivery on the Respondent on 18 September 2018;
4. The Ground for possession stated was Ground 4 to Schedule 3 of the Act;
5. The Applicant had lodged a letter stating this was the basis for recovery of possession dated 19 September 2018;
6. The Tribunal were satisfied that the Applicant wished to recover possession to live in the Property himself; and
7. Section 11 Notice had been served on the relevant local authority.

The Tribunal considered that it had sufficient evidence to enable a decision to be made and that it was fair to do so. The Tribunal determined that the order for eviction and recovery of possession be granted.

The Tribunal were satisfied that granting the order was in accordance with the overriding objective and the interests of justice.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

A Strain

Legal Member/Chair

Date

14 July 2019