



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

Chamber Ref: FTS/HPC/EV/19/3439

Re: Property at 184 Balunie Drive, Dundee, DD4 8QE (“the Property”)

Parties:

Mr Keith Donald, Mrs Lorraine Donald, 377 King Street, Broughty Ferry, Dundee, DD5 2HJ (“the Applicant”)

Ms Megan Isles, 184 Balunie Drive, Dundee, DD4 8QE (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants were entitled to an order for the eviction of the Respondent from the property under Ground 15 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.

Background

1. By application dated 24 October 2019 the Applicants’ representatives Baillie Shepherd, Solicitors, Dundee applied to the Tribunal for an order for the eviction of the Respondent arising from her tenancy of the property. They submitted a copy of the tenancy agreement together with copy correspondence to the Respondent, emails from Dundee City Council, Section 11 Notice and email to Dundee City Council and Notice to Leave. in support of the application.
2. By Notice of Acceptance dated 30 October 2019 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion was assigned.

3. Intimation of the Case Management Discussion was given to the Applicants' representatives by post on 12 December 2019 and to the Respondent by Sheriff Officers on 13 December 2019.
4. By emails dated 23 December 2019 and 8 January 2020 Linda Bulle of Shelter Scotland, Dundee confirmed that she was representing the Respondent and subsequently confirmed that the Respondent did not wish to oppose the application but wished it to be known that she was not the perpetrator of the Anti-social Behaviour which she blamed on her ex-partner. Ms Bulle also advised the Tribunal that neither she nor the Respondent intended to attend the Case Management Discussion.

The Case Management Discussion

5. A Case Management Discussion was held at Caledonian House Dundee on 17 January 2020. The Applicant Mr Keith Donald appeared in person and was represented by Mr Ken Glass of Baillie Shepherd. The Respondent did not attend and was not represented. The Tribunal being satisfied that proper intimation had been given to the Respondent determined to proceed in her absence in accordance with The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
6. Mr Glass submitted that the Notice to Leave had been properly served on the Respondent and referred the Tribunal to the copy lodged with the application. He confirmed that he had signed the original document and the boxes for grounds 14 and 15 had been ticked. These were not shown on the copy.
7. Mr Glass went on to refer to the emails from Dundee City council reporting the incidents of anti-social behaviour to the Applicants and to the correspondence sent by his firm to the Respondent copies of which had been submitted with the application. Mr Glass confirmed that the Applicants attended a meeting with Dundee City Council to which the Respondent had been invited but she did not attend. Mr Glass made reference to the numerous incidents referred to in the emails and his letter to the Respondent.
8. Mr Glass went on to say that two neighbours at the property, Christine Boland and Fiona Maloney had provided witness statement and had spoken to further incidents of verbal abuse, drives being blocked, engines being revved and the place smelling of cannabis. One witness also spoke of hearing knocking on walls, continual arguments, fights, things being smashed and had expressed concerns about children's safety.
9. Mr Glass pointed out to the Tribunal that it had been acknowledged in the Respondent's representatives email that the Respondent did not wish to oppose the application and that anti-social behaviour had occurred albeit that the blame was being placed by the Respondent on her ex-partner rather than herself. Mr Glass submitted that given the evidence submitted and the fact the

application was not opposed there was a sufficiency to allow the Tribunal to make a final order today on both Grounds 14 and 15 and asked the Tribunal to grant the order.

Findings in Fact

10. The parties entered into a Private Residential Tenancy Agreement that commenced on 18 February 2018.
11. The Respondent has associated with a person who has engaged in anti-social behaviour.
12. There have been incidents of anti-social behaviour reported to Dundee City Council Anti-social Behaviour Team in respect of the Respondent in May 2019 and in June 2019.
13. The Respondent has accepted there has been anti-social behaviour on the part of her ex-partner.
14. A Notice to Leave under Grounds 14 and 15 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 was served on the Respondent.
15. A Section 11 Notice was sent to Dundee City Council at the commencement of these proceedings.

Reasons for Decision

16. The Tribunal was satisfied that a valid Notice to Leave was sent to the Respondent explaining the nature of the Grounds for Eviction and detailing the allegations of anti-social behaviour.
17. The tribunal noted the information contained in the emails from Dundee City Council Anti-Social behaviour Team and the terms of the correspondence sent from the Applicants' representatives to the Respondent. The tribunal also took account of the witness statements provided by Ms Bolland and Ms Maloney.
18. Were it not for the fact that the Respondent herself had indicated through her representative that she did not wish to oppose the application and indeed accepted there had been anti-social behaviour on the part of her ex-partner the Tribunal would have been inclined to fix a hearing at which evidence would be led but given the admissions by the Respondent and the information before it the Tribunal was of the view that there was sufficient evidence available to grant the order sought under Ground 15. However as it was not accepted by the Respondent that she was the perpetrator of anti-social behaviour herself the Tribunal would not have been prepared to grant an order under Ground 14. Mr Glass confirmed to the Tribunal that he would be content with an order under Ground 15.

19. Having considered the documents submitted and the oral submissions made the Tribunal was prepared to make an order under Ground 15 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016

Decision

20. The Tribunal finds the Applicants entitled to an order for the eviction of the Respondent from the property under Ground 15 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.

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.

Graham Harding

Legal Member/Chair

17 January 2020

Date