



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/19/3571

Re: Property at 164D Market Street, Aberdeen, AB11 5PP (“the Property”)

Parties:

Mrs Sheena Cooper, Countesswells House North, Bielside, Aberdeen, AB15 9BT (“the Applicant”)

Mr Neil Traynor, 164D Market Street, Aberdeen, AB11 5PP (“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 Applicant was entitled to an order evicting the Respondent from the property.

1. By application dated 6 November 2019 the Applicant’s representatives Geraghty-Gibb Property Management, Aberdeen applied to the Tribunal for an order for payment in respect of alleged rent arrears. The Applicant’s representatives submitted a copy of the tenancy agreement, Notice to Leave with proof of posting and receipt, Section 11 Notice and a Home Report .
2. By Notice of Acceptance dated 23 December 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 Applicant’s representatives by post on 6 January 2020 and to the Respondent by Sheriff Officers on 7 January 2020.

The Case Management Discussion

4. A Case Management discussion was held at Aberdeen Sheriff Court on 4 February 2020. The Applicant did not attend but was represented by Mrs Marlene Leiper of the Applicant's representatives. The Respondent did not attend and was not represented. The Tribunal being satisfied that proper intimation of the Case Management Discussion having been given to the Respondent determined to proceed in his absence.
5. Mrs Leiper explained that the Respondent had returned the keys to the property on 3 February 2020. An outgoing inspection of the property had been carried out and it was confirmed that the Respondent had removed his clothes and all of his personal belongings from the property.
6. Mrs Leiper referred the Tribunal to the terms of the Tenancy agreement entered into between the parties and to the Notice to Leave dated 11 September 2019. She confirmed the Notice to Leave had been sent by email to the Respondent on 11 September 2019 and therefore the earliest date for making an application to the Tribunal was correctly stated as being 12 October 2019.
7. Mrs Leiper confirmed the Applicant intended to sell the property and she referred the Tribunal to the Home Report submitted with the application. She also advised the Tribunal that the Applicant had obtained quotes from Estate Agents with a view to marketing the property once she had obtained vacant possession.
8. Mrs Leiper referred the Tribunal to the Section 11 Notice sent to Aberdeen Council together with the proof of posting dated 8 November 2019.
9. Although the Respondent had clearly left the property the Applicant was concerned that without an order there was a possibility he might return and Mrs Leiper asked the Tribunal to grant the order sought.

Findings in Fact

10. The parties entered into a Private Residential tenancy Agreement that commenced on 1 April 2019 at a rent of £400.00 per month.
11. The Applicant intends to market the property for sale on obtaining vacant possession.
12. The Applicant obtained a Home Report dated 27 August 2019 in preparation of marketing the property for sale.
13. A Notice to Leave was sent to the Respondent on 11 September 2019.

14. A Section 11 Notice was sent to Aberdeen city Council on 8 November 2019.

Reasons for Decision

15. The Tribunal was satisfied from the documents submitted and the oral submissions of Mrs Leiper that the parties had entered into a Private Residential Tenancy Agreement, that a valid Notice to Leave had been sent to the Respondent and that it was the Applicant's intention to market the property for sale on obtaining vacant possession as evidenced by the Home Report.
16. The Tribunal was also satisfied that it appeared the Respondent had vacated the property in advance of the Case Management Discussion.
17. The Tribunal was satisfied that proper intimation of the proceedings had been given to the local authority by sending a Section 11 Notice.
18. In all the circumstances it was reasonable to grant the order sought under Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016.

Decision

19. The Tribunal was satisfied in all the circumstances that the Applicant was entitled to an order for the eviction of the Respondent from the property.

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

4 February 2020
Date