



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

Chamber Ref: FTS/HPC/EV/19/3876

Re: Property at 140 Hospital Hill, Dunfermline, KY11 3AU (“the Property”)

Parties:

R Simpson Motors Limited, 50-80 Rumblingwell, Dunfermline, KY12 9AS (“the Applicant”)

Mr Christopher Gunn, 140 Hospital Hill, Dunfermline, KY11 3AU (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 of schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

- Background
- 1. An application dated 3 December 2019 was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought a repossession order against the Respondent on the basis of the Applicant’s intention to sell the Property, being Ground 1 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”).

- Case Management Discussion

2. A Case Management Discussion (“CMD”) took place on 7 February 2020. Diane Simpson appeared for the Applicant and was represented by Linda Kettles of Morgans Property. There was no appearance by or on behalf of the Respondent. The Tribunal was satisfied that the application had been intimated on the Respondent by way of Sheriff Officer and accordingly the Respondent had sufficient intimation of the date and time of the CMD. Accordingly, the Tribunal was satisfied that the CNMD could proceed in the Respondent’s absence.
3. The Applicant moved for the Order to be granted as sought. The parties had entered into a Private Residential Tenancy Agreement (“the Agreement”), which commenced on 20 June 2019. The Applicant intended to sell the Property and required vacant possession in order to do so. A Notice to Leave had been served on the Respondent on the basis of Ground 1 of Schedule 3 to the 2016 Act, on 11 October 2019 by way of email. The Respondent had thereafter indicated that he would remove himself from the Property on 11 November 2019 but he failed to do so. He was still believed to be residing within the Property.
4. The following documents were lodged alongside the application:
 - (i) Copy Private Residential Tenancy Agreement
 - (ii) Copy Notice to Leave
 - (iii) Proof of service of the Notice to Leave by both email and letter
 - (iv) Section 11 notification to the local authority under the Homelessness etc. (Scotland) Act 2003
 - (v) Letter from Morgans Solicitors dated 26 November 2019 confirming instruction re acting as agent in the sale of the Property.

- Findings in Fact

5. The Tribunal made the following findings in fact:
 - (i) The parties entered into a Private Residential Tenancy Agreement which commenced on 20 June 2019;
 - (ii) The Applicant is the heritable proprietor of the Property;
 - (iii) The Applicant is entitled to sell the Property;
 - (iv) The Applicant has served a Notice to Leave on the Respondent on the basis of Ground 1 of Schedule 3 to the 2016 Act;
 - (v) The Applicant has provided a letter of engagement from an estate agent regarding the marketing of the Property.

- Reasons for Decision

6. The Tribunal was satisfied that the terms of Ground 1 of Schedule 3 to the 2016 Act had been met, namely that the Applicant intends to sell the property and

intends to do so within 3 months of the Respondent ceasing to occupy it. The Tribunal was satisfied that a Notice to Leave had been served on the Respondent and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act.

- Decision
7. The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 under schedule 3 to 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.

Fiona Watson

Legal Member/Chair

7/2/2020

Date