



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/19/4013

Re: Property at 2R, 6 Balerno Street, Dundee, DD4 8NR (“the Property”)

Parties:

Mr Callan McIver, 31Q North Bridge Street, Bathgate, West Lothian, EH48 4PJ (“the Applicant”)

Miss Kitty Massie, 2R, 6 Balerno Street, Dundee, DD4 8NR (“the Respondent”)

Tribunal Member:

Nicola Irvine (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the order to recover possession of the property.

Background

The Applicant submitted an application seeking an order to evict the Respondent from the property at 2R, 6 Balerno Street, Dundee. The Tribunal issued a letter to the parties dated 28th January 2020 advising them of the date, time and place of today’s case management discussion. In that letter, the parties were also told that they required to attend the hearing and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 18th February 2020. No written representations were received from the Respondent.

The Case Management Discussion

The Applicant was represented by Miss Donnelly, solicitor. The case management discussion proceeded in the absence of the Respondent.

The Tribunal noted that there were no written representations made by the Respondent and the Tribunal was therefore unaware of the Respondent's position. The Applicant's representative advised that there has been no recent contact from the Respondent and she has not returned keys. The Tribunal was also advised that the Respondent has not paid rent since 16th January 2020, which was shortly before the Respondent would have received intimation of these proceedings.

The Applicant's representative advised that the order for eviction was sought on the basis of grounds 4 of schedule 3 of the 2016 Act. The Applicant intends to live in the property on a long term basis and certainly longer than 3 months. An affidavit was produced in which the Applicant states that he intends to reside at the property.

Findings in Fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement dated 31st May 2019.
2. The rent payable was £500 per month, payable in advance.
3. The Applicant served Notice to Leave by email on 8th November 2019.
4. The Applicant intends to live in the property as his main residence for a period in excess of 3 months.
5. The Applicant is entitled to the Order sought for repossession.

Reason for Decision

The Tribunal proceeded on the basis of the written documents which were before it and the submissions made at the case management discussion. The Respondent was given an opportunity to provide written representations to the Tribunal; she failed to do so and she failed to attend the case management discussion. The Applicant's representative invited the Tribunal to make the Order sought. The Applicant relied upon Ground 4 of Schedule 3 of the 2016 Act. The Notice to Leave had been properly served. The Tribunal was satisfied that Ground 4 had been established, which is of course a mandatory ground of eviction. There was nothing before the Tribunal challenging or disputing any of the evidence before it.

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.

Nicola Irvine

Legal Member/Chair

3rd March 2020

Date