

Housing and Property Chamber
First-tier Tribunal for Scotland



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/21/1186

Re: Property at 19B High Street, Johnstone, PA5 8JU (“the Property”)

Parties:

Mr Allan Henderson, Ochanbar, Tandlehill Road, Kilbarchan, PA10 2DD (“the Applicant”)

Mr Martin McPhee, 19B High Street, Johnstone, PA5 8JU (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Elaine Munroe (Ordinary 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 sought for recovery of possession of the property.

Background

- [1] The Applicant submitted an application seeking an order to evict the Respondent from the property. The Tribunal issued a letter to the parties dated 15 July 2021 advising them of the date, time and conference call details of today’s case management discussion. In that letter, the parties were also told that they required to take part in the discussion 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 5 August 2021. No written representations were received by the Tribunal.

The Case Management Discussion

- [2] The Applicant was represented by Mrs Deans. The case management discussion which took place by conference call and proceeded in the absence of the Respondent.
- [3] 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 Tribunal noted the detailed timeline lodged with the application which provides details of the many failed attempts to contact the Respondent. The Applicant's representative advised that there have been further attempts to contact since the timeline was lodged, but those attempts have also been unsuccessful. She explained that when sheriff officers attempted intimation of the present application to the Respondent, they were unable to gain access to the property and attended at the office of Penny Lane Homes to obtain a set of keys to access the communal door. The Tribunal noted the two inspection reports prepared by the Applicant's representative dated 4 May 2021 and 21 June 2021, which appear to show that there has been no movement in the property between those dates.
- [4] The Applicant sought the order for eviction on the basis of ground 10 of schedule 3 of the 2016 Act and submitted that in the circumstances, it was reasonable to do so.

Findings in Fact

- i. The parties entered into a Tenancy Agreement dated 13 August 2020 which commenced that day.
- ii. The rent payable was £350 per month, payable in advance.
- iii. The Applicant served Notice to Leave by recorded delivery on 14 April 2021.

Reason for Decision

- [6] 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; he failed to do so and he failed to participate in the case management discussion. The Applicant invited the Tribunal to make the Order sought. The Applicant relied upon Ground 10 of Schedule 3 of the 2016 Act. The Notice to Leave had been served. The Tribunal was satisfied that Ground 10 had been established, and that it was reasonable in all the circumstances to grant the order sought. 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.



Legal Member/Chair

19 August 2021

Date