



Decision 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/19/2916

Re: Property at 14/6 Wardieburn Place East, Edinburgh, EH5 1DW (“the Property”)

Parties:

Ms Elizabeth Law, 27 Reid Terrace, Edinburgh, EH3 5JH (“the Applicant”)

Mr Jerzy Grabowski, Ms Arleta Cwirzewicz, Room 6, 9 John's Place, Edinburgh, EH6 7EL; 14/6 Wardieburn Place East, Edinburgh, EH5 1DW (“the Respondent”)

Tribunal Members:

John McHugh (Legal Member)

Decision (in absence of the Second Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction of the Respondents from the Property should be made.

Background

The Applicant is the landlord and the Respondents are the tenants of the Property in terms of a private residential tenancy dated 10 and 13 February 2019.

The First Respondent remains in occupation.

The Second Respondent moved out some weeks ago.

The Case Management Discussion

A Case Management Discussion ("CMD") took place at Riverside House, Edinburgh on 18 November 2019. The Applicant was present as was the first Respondent. The Second Respondent was absent.

Findings in Fact

The Applicant is the landlord and the Respondents are the tenants of the Property in terms of a private residential tenancy dated 10 and 13 February 2019.

The Applicant wishes to sell the Property. The Applicant intends to redecorate and market the Property quickly thereafter.

On 18 June 2019 Notice to Leave was served upon the Respondents providing them with notice of the Applicant's intention to sell and that proceedings would be brought after 14 September 2019.

The First Respondent remains in occupation. The Second Respondent does not.

Reasons for Decision

The Applicant has confirmed that she wishes to sell. She has produced documentary evidence of that intention in the form of a solicitor's letter of engagement. The First Respondent accepts that the Applicant's intention is genuine. She accepts the legal position but her difficulty is simply that she has nowhere else to go.

As regards the Second Respondent, there was a domestic dispute and the Tribunal was informed that he is legally prevented from returning to the Property. He left the Property some weeks ago in September 2019. It is clear to the First Respondent and to the Applicant that he has no intention of returning. He has been in contact with the Applicant and she had assisted in him recovering his belongings. The Applicant showed the Tribunal text messages from the Second Respondent demonstrating this and that the Second Respondent was aware of the Notice to Leave. Attempts to serve the application upon the Second Respondent had been unsuccessful. The Tribunal considers that in the current circumstances, where the Second Respondent is neither intending nor able to live in the Property and has removed himself and his belongings, continuing the matter for service by advertisement upon the Second Respondent would serve no meaningful function.

In the circumstances, Eviction Ground 1 contained in Schedule 3 to the 2016 Act applies and the Tribunal is satisfied that the criteria specified in the Ground have been satisfied.

Decision

An order for eviction of the Respondents from the Property should be made.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

J. H

John McHugh, Legal Member/Chair

18 November 2019

Date