

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/21/0002

Re: Property at 24 Tiree Court, Ravenswood Cumbernauld, G67 1NS (“the Property”)

Parties:

Mr Lyndon Maltby and Mrs Fiona Maltby, both residing at 203 Ashdale Drive, Glasgow G52 1LX (“the Applicants”),

K Property, 12 Ettrick Square, Cumbernauld, G67 1ND (“the Applicants’ Representative”) and

Miss Sharon McDade 24 Tiree Court, Ravenswood Cumbernauld, G67 1NS (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

S Hesp- Ordinary Member

Decision in absence of the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined as follows:

Background

1. This Application, contained in papers lodged with the Tribunal between 30th December 2020 and 3rd February 2021, was brought in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).
2. The Applicants’ Representative had provided the Tribunal, in the Application, with copies of the parties’ Private Residential Tenancy Agreement (“the

PRT”), the Notice to Leave served on the Respondent and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice intimated to North Lanarkshire Council. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied. The Representative also submitted a Rent Payments Statement.

3. The Respondent had been validly served by Sheriff Officers with the Notification, Application papers and Guidance Notes from the Tribunal on 19th February 2021, and the Certificate of Intimation was produced.

Case Management Discussion

4. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 2pm on 25th March 2021. The Applicants’ Representative’s Mrs D Cramb attended. The Respondent did not attend and was not represented. Mrs Cramb stated that the Applicant Mr Maltby’s mother had now returned from Spain to live in Scotland and that the Applicants did not have sufficient space in their own home to accommodate Mr Maltby’s mother permanently. Mrs Cramb said that she had been liaising with the Respondent, who had stated that she had applied to North Lanarkshire Council and Sanctuary Housing Association for alternative housing and that the Respondent awaited the grant and issue of an eviction order to progress those applications. Ms Cramb submitted that as the Respondent had been effectively served with all papers in respect of the Application for an eviction order, and had not lodged any representations with the Tribunal, nor attended at the CMD, the eviction order should be granted.

Statement of Reasons

5. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) the Tribunal is to issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
6. Schedule 3 (5) (1) of the 2016 Act provides that it is an eviction ground that a member of the landlord’s family intends to live in the let property and confirms the criteria for the grant of an eviction order on this ground.
7. The Tribunal considered the Application papers, including the PRT, Notice to Leave and the letter from the Applicant Mr Maltby dated 29th January 2021, as well as the submission of the Representative’s Mrs Cramb. Having done so, the Tribunal was satisfied that the Applicants sought recovery of the Property to enable a qualifying relative, a parent, to occupy the Property as their only or principal home for at least 3 months. The Respondent had not lodged representations with the Tribunal or attended the CMD to provide any evidence, and/or make any submission, to oppose, and contradict the basis for, the order sought. In all the circumstances the Tribunal determined that it was reasonable that an eviction order be granted.

Decision

8. The Tribunal therefore made an eviction order as sought in this Application.

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.

G McWilliams

Legal Member

25th March 2021

Date