



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/22/4336

Re: Property at Flat 3/1, 28 West End Park Street, Glasgow, G3 6LG (“the Property”)

Parties:

Ms Shaeen Ahmad, 25 Rannoch Drive, Glasgow, G61 2JJ (“the Applicant”)

Mr Rory Bell, Mr Phillip Piper, Mr Connor Boyes, Mr Sam Conchie, Flat 3/1, 28 West End Park Street, Glasgow, G3 6LG (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Helen Barclay (Ordinary Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondents.

1. Introduction

This Case Management Discussion (CMD) concerned an Application for an Eviction Order in respect of a Private Residential Tenancy under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The CMD took place by teleconference. Parties were advised on the procedure of a CMD and the rules regarding them.

2. Attendance and Representation

The Applicant was present alongside her husband Akhtar Ahmad, who also took part in the hearing.

The Respondents were all present.

3. Preliminary Matters

The Applicant raised that her letting agents had started the application but she had since terminated with their services.

There was no other preliminary matters raised.

4. Case Management Discussion.

For the Applicants

The Applicant explained that following termination of their contract with the letting agents who had raised the application with the Tribunal she was now dealing with the property. The Applicant confirmed as she had with the Tribunal administration that she wished to proceed with the application and seek an Eviction order. This was on the basis that she no longer had an HMO licence and that she considered she had been let down in that regard by her letting agents. She maintained she had a full management contract and these matters were part of same.

The Applicant said the property was not HMO licensed and no further work had taken place in that regards to obtain a HMO licence. Her husband explained that at the moment there are 4 students who are the Respondents living inside the flat and there is no licence. There is also a suspension of rent which has been ongoing since the 9th November 2022. He said that an order for eviction was sought to stop the Respondents continuing to stay in the absence of the necessary licence. The intention was not to seek another HMO licence. The Applicant said that the property is not a HMO and is not fulfilling the council requirements. The Applicant is incurring expense with the property without rent and a new HMO licence would take a long time and they cannot incur the extra expense. The Applicant said that legally the students cannot stay on in the flat just now as it does not have a HMO.

For the Respondents

Mr Bell, the First Respondent spoke for the rest of the Respondents who were all present. He said they all signed a contract of lease which said there was a HMO licence. The Respondents explained that they had been trying to look for other properties and they were hard to come by at present. They understood any order would be subject to The Cost of Living (Protection for Tenants) (Scotland) Act 2022. They had been property hunting. All the Respondents are students and some of them also work in Glasgow. They have been trying their best to find alternative accommodation.

5. Reasons for Decision and Findings in Fact

1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. The Respondents were all present and they were in agreement to the material issue that there was no HMO licence for the property concerned.
2. The parties entered into a Private Residential Tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016 on the 8th June 2022.
3. The Applicants sought an Order for Eviction on the ground that in terms of schedule 3 Part 4, Ground 7 the property is in multiple occupation and is not licensed under Part 5 of the Housing (Scotland) Act 2006 (“the 2006 Act”).
4. The Applicant lodged with the Tribunal Glasgow City Council correspondence dated 25th July 2022 which confirmed refusal of an existing HMO licence in terms of the 2006 Act for the property.
5. A Notice to Leave was sent to the Respondent on the 27th October 2022.
6. The Tribunal was satisfied in terms of Schedule 3, Part 4, Ground 7 that to issue an eviction order on the fact that the HMO licence for the property had been revoked was reasonable. The reasons for revocation of the licence were serious in particular regarding electrical testing and lack of building insurance. The Respondents were residing in a property regarded as not safe for multiple occupation.
7. The Tribunal found that the requirements of Ground 7, Schedule 3, Part 4 of the Act had been met.
8. The Tribunal was also satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period.
9. The Tribunal noted the Local Authority under the 2016 had been notified on 6th December 2022.
10. The Tribunal also considered reasonableness in terms of the Coronavirus (Scotland) Act 2020. The Respondents have had to endure residing in a property without a licence for multiple occupation with safety concerns and problems with cooking. A period of notice has been given. The Applicant has costs associated with the property and is unable to obtain rental income. She has terminated a relationship with the letting agent whom she said was instructed to manage the property including HMO licence matters. It was reasonable that the Applicants be able to gain vacant possession in the absence of a HMO licence. The Respondents would be protected by The Cost of Living (Protection for Tenants) (Scotland) Act 2022 The Tribunal found an Order in its discretion was also reasonable in terms of the Coronavirus (Scotland) Act 2020.
11. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.

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.

K Kirk

20th April 2023.

Legal Member/Chair

Date