



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/22/1621

Re: Property at 24 King Street, Hamilton, South Lanarkshire, ML3 9JE (“the Property”)

Parties:

Zabriskie Property Limited, 4 Nursery Park, Innerleithen, EH44 6JB (“the Applicant”)

Ms Hayley Louise Coleman, 24 King Street, Hamilton, South Lanarkshire, ML3 9JE (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Linda Reid (Ordinary Member)

Decision (in absence of the Parties)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be dismissed.

Background

By application, received by the Tribunal on 27 May 2022, the Applicant sought an Eviction Order under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 3 of Schedule 3 to the 2016 Act, namely that the landlord intends to refurbish the Property.

The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties commencing on 1 July 2021 at a rent of £515 per month, and a Notice to Leave dated 22 November 2021, advising the Respondent that the Applicant was intending to undertake some planned refurbishment work, which would take a minimum period of 5 weeks to complete, that the Property will not be habitable during the period of the works, that the Applicant was unable to provide alternative accommodation, that the Applicant intended to apply to the Tribunal for an Eviction Order under Ground 3 of Schedule 3 to the 2016 Act and that the application would not be made before 25 May 2022. The Applicant also provided copies of a quote

from contractors to convert the Property from a 3-bedroom to a 2-bedroom property, the work, which included the removal of an internal wall, to take a minimum period of 5 weeks. The Applicant also provided a copy of a plan of the existing layout, prepared by a firm of architects, and their Invoice for this work.

On 15 September 2022, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 6 October 2022. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion as held by means of a telephone conference call on the afternoon of 27 October 2022. Neither Party was present or represented.

Reasons for Decision

The Tribunal could not determine the application on the basis of the written application and supporting papers, because it could not be satisfied as to whether it would be reasonable to issue an Eviction Order without further explanation by the Applicant as to the background to the case. The Tribunal was unwilling, in the absence of an explanation for the failure of the Parties to attend, to adjourn the Case Management Discussion to a later date. Accordingly, the Tribunal dismissed the application, in the knowledge that, should either of the Parties have an acceptable excuse for having failed to attend the Case Management Discussion, an application for Review or Recall of the Tribunal's Decision could 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.

**George Clark
Legal Member/Chair**

**27 October 2022
Date**