



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/21/2909

Property: 42H Holland Street, Aberdeen AB25 3UL (“the Property”)

Parties: Mr Richard Frederick Gibson, Mrs Lana Karolina Gibson, 2 Boatie Row, Cowie, Stonehaven (“the Applicants”)

and

Mr Kyle Wilson, 42H Holland Street, Aberdeen AB25 3UL (“the Respondent”)

Tribunal Members:

Mark Thorley (Legal Member)

Gordon Laurie (Ordinary Member)

Decision (in absence of the respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction be granted.

Background

1. The applicants through their representative Homeguard Leasing sought recovery of possession of the property by way of application dated 16 November 2021. Accompanying the application was a copy of a Private Residential Tenancy Agreement dated 19 and 22 September 2020, copy of Notice to Leave issued by email and dated 12 October 2021, previous emails between the agent and the respondent regarding visits and inspections to the property and copy of Notice to the Local Authority dated 17 November 2021.
2. The application was received by the Tribunal on 10 December 2021.
3. On 20 December 2021 the application was accepted.

4. On 19 January 2022 intimation was given by post to the respondent of the case management discussion fixed for 25 February 2022.
5. Service was also effected by sheriff officers on 19 January 2022.
6. No written representations were received from the respondent.

Case Management Discussion

7. At the case management discussion Mr Gavin Strachan from Homeguard Leasing appeared on behalf of the applicant. There was no appearance by or for the respondent.
8. The Tribunal asked various questions of Mr Strachan.
9. Firstly the Tribunal wished to establish whether the lease remained in joint names. The original lease had been in the name of Mr David Cameron and Mr Kyle Wilson. Mr Strachan confirmed that this had been amended to Mr Kyle Wilson alone.
10. The Tribunal thereafter wished to know whether (as far as Mr Strachan was concerned) Mr Wilson was still in the property. Mr Strachan advised that he had attended at inspections on 5 and 21 September 2021 and then again on 12 October 2021 and there was nobody in the property. There were some personal items still left but there were only a few. There was mail collected in the property. As far as Mr Strachan was concerned the property had been vacated.
11. The Tribunal also asked in relation to the dates for service of the Notice to Leave. In the paperwork the letters accompanying the Notice to Leave were dated 11 November 2021 and subsequently 10 December 2021 both indicating that the respondent had to leave by 9 November 2021. However reference was made to the email of 12 October 2021. It appeared to be the case that when the letters were subsequently printed for the purpose of the Tribunal that the computer simply printed them as of that date as opposed to the date when they were actually sent to the respondent. Mr Strachan confirmed that this was correct.

Findings in fact

12. The respondent entered into a Private Residential Tenancy Agreement dated 19 and 22 September 2020 for the property at 42H Holland Street, Aberdeen AB25 3UL.
13. The commencement of the tenancy was on 23 September 2020 and rent was due at £595 per calendar month payable in advance.
14. As at 29 June 2021 the tenant Mr David Cameron had left the property and the respondent became the sole tenant.

15. On 10 August 2021 the respondent wrote to the letting agents indicating that he had not been well, had been in Hairmyres Hospital and was staying with family in Glasgow but was anticipating returning to the property.
16. The letting agent inspected the property on 12 October 2021 and established that there was no-one living there. There were a few limited personal possessions.
17. On the same date a Notice to Leave was served by email on the respondent. Subsequently a Section 11 Notice was sent to Aberdeen City Council on 17 November.
18. The respondent has abandoned the property.

Reason for decision

19. The respondent did not attend at the case management discussion nor had provided written representation. Although the sheriff officers had indicated that service had been effected at the property address that had been by way of depositing. The Tribunal accepted the evidence of Mr Strachan who confirmed he had been inside the property in October and that there was no-one living there. Rent was not being paid. There was no indication at all that the respondent had returned to live in the property. His last communication was the email of 10 August 2021 in which he said that he was with family in Glasgow.
20. The Tribunal accepted that the respondent had abandoned the property. He had been in no communication since 10 August. The property had been examined.
21. Accordingly the Tribunal granted the order of eviction.


Decision

To grant an order for eviction.

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.

25th February 2022



Legal Member/Chair

Date