



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

Chamber Ref: FTS/HPC/EV/21/0483

Re: Property at 22c Hagg Crescent, Johnstone, PA5 8TA (“the Property”)

Parties:

Mr Graham Davison, Mrs Lynnette Davison, Little Corseford Cottage, Beith Road, Johnstone, PA10 2NR (“the Applicants”)

Ms Leeann Hassan, 22c Hagg Crescent, Johnstone, PA5 8TA (“the Respondent”)

Tribunal Members:

**Josephine Bonnar (Legal Member)
Leslie Forrest (Ordinary Member)**

Decision (in absence of the Applicants and the Respondent)

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

Background

1. By application received on 2 March 2021, the Applicant seeks an eviction order in terms of section 51 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). A Notice to Leave with Post Office certificate of posting, rent statement and Notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 were lodged in support of the application. The application is based on ground 12 of schedule 3, rent arrears over three consecutive months.
2. A copy of the application and supporting documents were served on the Respondent by Sheriff Officer on 7 April 2021. Both parties were advised that

a Case Management Discussion (“CMD”) would take place on 7 May 2021 at 10am by telephone conference call and that they were required to participate. They were provided with a telephone number and passcode.

3. On 6 April 2021, the Respondent sent an email to the Tribunal which stated that she had removed the majority of her belongings from the property, but not all, because the landlord had not provided her with an inventory. This meant that the Local Authority was unable to assist her with the removal of the remainder of her possessions. She also stated that she was in the process of being sequestered.
4. On 13 April 2021, the Applicants sent an email to the Tribunal which stated that the Respondent had removed the majority of the large items from the property, but a number of items remained. They had told the Respondent that she would be provided with a copy of the Inventory at the checkout meeting. They further advised that the Respondent left the property on 27 March 2021, without giving notice, but had notified Council Tax. Since then, they have changed the locks but the Respondent has been given a key so she can remove the remainder of her belongings. The Applicants asked whether an eviction order was still required if the Respondent failed to remove her belongings in a timely manner.
5. On 4 May 2021, the Applicants were notified that the Tribunal could not provide them with legal advice on whether the application should continue but that the CMD would proceed unless they withdrew the application. No response was received.
6. The CMD took place on 7 May 2021. Neither party participated. Neither party contacted the Tribunal in advance of the CMD

Case Management Discussion

7. As neither party participated, the Tribunal was given no information at the CMD.

Reasons for Decision

8. From the information provided in advance of the CMD, the Tribunal notes that the Respondent appears to have vacated the property at the end of March 2021, although some of her belongings were still within the property when she emailed the Tribunal on 7 April 2021. Although no written notice had been given by the Respondent, and no eviction order issued by the Tribunal, the Applicants changed the locks at some point prior to their email of 15 April 2021. They indicated at this stage that they had provided the Respondent with a key so she could remove her belongings from the property.

9. The Applicants were notified by the Tribunal that the CMD would proceed unless they withdrew the application. They did not make further contact with the Tribunal or withdraw the application. However, they failed to participate in the CMD or provide any further information regarding the application. In the absence of any evidence that the Applicants still seek an eviction order, the Tribunal determined that the application should be refused.

Decision

10. The Tribunal determined that the application should be refused.

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.

Josephine Bonnar

Josephine Bonnar, Legal Member

7 May 2021