



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/19/3741

Re: Property at 20E Muircroft Terrace, Perth, PH1 1EW (“the Property”)

Parties:

Mrs Evelyn Brockbank, 3 Lossley Park, Duncrievie, Glenfarg, Perth, PH2 9QY (“the Applicant”)

Mr Grant Stainer, 20E Muircroft Terrace, Perth, PH1 1EW (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled for an order for repossession of the Property.

Background

1. An application was received by the Housing and Property Chamber on 22nd November 2019. It was dated 21st November 2019. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to ground 1 of Schedule 3 of the Private Housing (Tenancies) Act 2016 (“the Act”).
2. The Tribunal had before it:-
 - a. Copy Scottish Government Model Private Residential Tenancy Agreement with commencement of tenancy being 31st May 2019;
 - b. Notice to Leave signed 13th August 2019 stating an application would not be submitted to the Tribunal before 13th September 2019;

- c. Section 11 notice noting proceedings would not be raised before 21st November 2019;
 - d. Rent statement from May 2019 to December 2019. This detailed the rent of £550 per month and arrears of £3300;
 - e. Copy Royal Mail track and trace dated 14th August 2019;
 - f. Attendance notes from Elliot & Co WS solicitors dated 26th July 2019 and 9th August 2019;
 - g. Email dated 13th January 2019 from the Applicant's solicitor requesting the amount sought increase from £2750 to £3300;
 - h. Letter for engagement for estate agency services form Elliot & Co WS solicitors;
 - i. Notice of acceptance dated 29th November 2019; and
 - j. Title deeds numbered PTH42379.
3. On 16th December 2019, all parties were written to with the date for the Case Management Discussion ("CMD") of 27th January 2020 at 10am at Inveralmond Business Centre, Auld Bond Road, Perth. The letter also requested all written representations be submitted by 6th January 2020.
 4. On 13th January 2020, the Applicant's solicitor emailed the Housing and Property Chamber requested the amount sought be increased to £3300. This was notified to the Respondent by the Housing and Property Chamber by post.
 5. On 17th December 2019, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by depositing in into the secure mailbox. This was evidenced by Certificate of Citation dated 17th December 2019.
 6. The case was conjoined with case FTS/HPC/CV/19/3742

The Case Management Discussion

7. A CMD was held on 27th January 2020 at 10am at Inveralmond Business Centre, Auld Bond Road, Perth. The Applicant was represented by Ms R Coulthard, local agent for the Applicant's solicitor. The Applicant was also present. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the hearing. Ms Coulthard informed the Tribunal that there were no outstanding Housing Benefit issues. The Respondent had been working as a self employed joiner and the Applicant had approached the company he was providing services for who were able to confirm that he was working. The Applicant informed the Tribunal that she still wished to sell the Property but could not access it in order to instruct a home report or have a property check done. On the Respondent leaving the Property this will be done and the Property will be marketed. The Applicant stated that she has no other intention than to sell the Property.

Findings and reason for decision

8. A Private Rented Tenancy Agreement commenced 31st May 2019.
9. The Respondent persistently failed to pay her rent charge of £550 per month.
10. The Applicant is intending to market the Property once she is able to gain entry for a home report. The Respondent has not allowed access yet.

Decision

11. The Tribunal found that ground 1 of Schedule 3 of the Act has been established and the granted an order in favour of the Applicant.

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.

Gabrielle Miller

27 January 2020

Legal Member/Chair

Date