



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/19/0402

Re: Property at 23 Kirkstone Close, East Kilbride, G75 8SU (“the Property”)

Parties:

NRAM Limited, Croft Road, Crossflatts, Bingley, West Yorkshire, BD16 2UA (“the Applicant”)

Mr George Kay, Unknown, Unknown (“the Respondent”)

Tribunal Member:

Maurice O'Carroll (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Possession should be granted

Background

1. By application dated 7 February 2019, the Applicant sought an order for possession of the Property in terms of ground 2 of Schedule 3 of the 2016 Act and rule 109 of the 2017 Procedure Rules.
2. A CMD set down for 15 April 2019 was cancelled as it was not possible to serve the Respondent, his whereabouts being unknown, having left the Property some two months prior to that date.
3. Service by advertisement was effected by the Tribunal and a further CMD was arranged for 30 May 2019.

Case Management Discussion (“CMD”)

4. At the CMD on 30 May 2019, Louise Gould of Messrs TLT LLP appeared, along with her colleague, Nicky Beach. There was no appearance for the Respondent. The Tribunal decided to proceed in his absence.

5. Miss Gould explained to the Tribunal by reference to the documents submitted that the landlord/borrower had entered into a tenancy agreement under the 2016 Act. A copy of the tenancy agreement was provided.
6. It was further explained that by virtue of decree in Hamilton Sheriff Court dated 4 May 2019, possession was granted to the heritable creditor. Notice to Leave was served on the Respondent on 5 November 2019 requiring vacant possession by 5 December 2019. Twenty-eight clear days were therefore allowed.

Findings in fact

7. A tenancy agreement dated 24 June 2018 was entered into between the Respondent and the landlord of the Property in terms of the 2016 Act.
8. Decree by the Applicant against the Landlord for vacant possession in terms of the Conveyancing and Feudal Reform (Scotland) Act 1970 was granted by decree in Hamilton Sheriff Court on 4 May 2019.
9. The requirements for Ground 2 have been established. The Applicant now requires to end the tenancy agreement in order to recover vacant possession of the Property.
10. Valid Notice to Leave was served on the Respondent on 5 November 2018, requiring possession by 5 December 2018.
11. The Respondent has now left the Property. However, a formal order of eviction is required from the Tribunal.

Decision

12. The Tribunal is satisfied that the ground for removal in terms of ground 2 to Schedule 3 to the 2016 Act has been established. It is further satisfied that all procedure requirements have been undertaken in terms of the 2017 rules.
13. Accordingly, the Tribunal grants the Order sought.

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.

M O'Carroll

Legal Member/Chair

30 May 2019

Date