



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/19/2957

Re: Property at 9 Lauder Gardens, Coatbridge, ML5 4UA (“the Property”)

Parties:

Mrs Karen Brady, 17 Sandpiper Crescent, Coatbridge, ML5 4UW (“the Applicant”)

Mr Frazer McKay, 9 Lauder Gardens, Coatbridge, ML5 4UA (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal 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 and that an order for possession should not be granted.

Background

1. An application was received on 20 September 2019 under rule 109 of Schedule 1 to the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”) seeking recovery of the property under Ground 12 as set out in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. Notice of the case management discussion, together with the application papers and guidance notes, was served on the respondent by sheriff officers on behalf of the tribunal on 28 November 2019. No written representations were received from the respondent.
3. An email was received from the applicant on 19 December 2019 in response to an email from the tribunal administration asking her to provide proof of delivery of the Notice to Leave. In her email, the applicant mentioned in

passing that the respondent had 'left of his own volition'. No further correspondence was received from the applicant.

The case management discussion

4. The case management discussion was held on 8 January 2020 at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. Neither party was present or represented. The tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date, time and place of a case management discussion had been duly complied with. The tribunal delayed the start of the discussion by 15 minutes, in case either party had been detained. They did not appear, however, and no telephone calls or messages had been received from them. The tribunal therefore proceeded with the case management discussion in the absence of the parties.
5. The tribunal noted that the applicant's email of 19 December 2019 suggested that the respondent had left the property at some point before that date.
6. As the applicant was not present at the CMD to request that the tribunal grant an order of possession, the tribunal concluded that the respondent had left the property and that the applicant no longer wished to pursue the application.

Decision

The tribunal determined that the application should be dismissed and that an order for possession should not be granted.

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.

Sarah O'Neill

08/01/2020

Legal Member/Chair

Date