



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

Reference number: FTS/HPC/EV/20/2584

Order granted on 07 May 2021 in absence of the Respondent

Property at 1/29 Heron Place, Edinburgh, EH5 1GG (“the Property”)

Parties:

Dr Sarah Turner and Mr Mark Waugh, Riverside Cottage, Isle of Harris, HS3 3JQ (“the Applicant”)

Ms Louise Hanscombe, 1/29 Heron Place, Edinburgh, EH5 1GG (“the Respondent”)

Tribunal Members:

**Paul Doyle (Legal Member)
Ann Moore (Ordinary Member)**

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 4 of part 3 of schedule 3 to the 2016 Act.

Background

The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicant had lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to leave, served on 08 September 2021, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

A Case Management Discussion took place before the Tribunal by telephone conference at 10.00am on 7 May 2021. Ms D Greeney represented the applicant. The hearing was delayed until 10.10am, but there was no appearance by or for the respondent.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Private Residential Tenancy Agreement for the Property dated 07 June 2019. The respondent took entry to the property on the same day.
2. The rent in terms of the Tenancy Agreement was £1200.00 per month.
3. The applicant discovered that they need to recover the property to live in as their own home.
4. On 8 September 2020 the applicant served a notice to leave on the respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 11 December 2020, the applicant submitted an application to the tribunal.
5. The Applicant seeks recovery of possession of the Property in terms Ground 4 of part 3 of schedule 3 to the 2016 Act. The landlord intends to live in the property for at least three months. It is the landlord's intention to occupy the property as their own home. The landlord is moving permanently to Edinburgh and has no other accommodation in Edinburgh.
6. Notice of the date of this hearing was served on the Respondent by sheriff officers on 9 April 2021. By email dated 30 April 2021 the respondent asked for a continuation of the Case Management Discussion so that she could seek advice and representation. By email dated 02 May 2021 the tribunal asked the respondent to provide detailed reasons for her application to continue the case management discussion and reminded the respondent to attend today's hearing so that she could ask for a postponement.
7. The respondent did not attend today's hearing. The respondent has not fully explained her request for a continuation. The respondent has not stated her opposition to the application. The respondent has had one calendar month to seek advice and representation. There is sufficient documentary evidence to allow this case to be justly determined today. The application to continue today's case management discussion is refused.

8. In a separate case between the same parties, this tribunal found that the respondent stopped paying rental in September 2020 and owes the applicant £9,600.00 in arrears of rental. There is no suggestion that the respondent is in arrears of rent either wholly or partly as a consequence of a delay or failure in the payment of a relevant benefit.

9. It is not argued that it is unreasonable to grant an order for repossession of the property. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in in terms Ground 4 of part 3 of schedule 3 to the 2016 Act is established. The respondent offers no defence to the application. For these reasons, the Tribunal determined to grant an Order for possession.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 4 of part 3 of schedule 3 to the 2016 Act.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

P Doyle

Legal Member

7 May 2021