

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Housing (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/22/1519

Property Address: Millbrig Cottage, Germinston Road, Orphir, Orkney KW16 3HD (“the property”)

The Parties: Mr Benjamin Blydenstein, Ms Catherine Blydenstein, 97 Gowan Avenue, Fulham, London SW6 6RQ, 159 Water Street, Cambridge CB4 1PB (“the tenant”)

Mrs Carmen Sanchez Lopez, Millbrig Cottage, Germinston Road, Orphir, Orkney KW16 3HD (“the respondent”)

Tribunal Members:

Mark Thorley (Legal)
Jane Heppenstall (Ordinary)

Background

1. The applicant applied to The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) by application through his legal agents dated 20 May 2022. Accompanying the application was a significant amount of documentation forming 14 productions.
2. The application was received by the tribunal on 8 June. Further information was sought.
3. On 4 August 2022 the application was accepted and a case management discussion set down for 21 October 2022.
4. Intimation of the proceedings was made upon the respondent by way of sheriff officer on 20 September 2022. No written representations were received.

Case Management Hearing

5. At the hearing Mr Gardner legal agent for the applicant attended. Mrs Lopez attended.
6. The applicant's legal agent had lodged in advance of the hearing an Affidavit from the first named applicant together with some submissions. Those had not been made available to the tribunal and as such a short adjournment was made in order for tribunal members to become familiar with these documents.
7. The respondent made it clear that she was not opposed to the application. She was seeking housing through the Local Authority. The Local Authority required from her an order. Failing an order she would have been otherwise deemed to be voluntarily homeless.

Findings in Fact

1. The parties entered into a private residential tenancy which was not conform to a written agreement but commenced on 17 December 2021 for the property at Millbrig Cottage, Germinston Road, Orphir, Orkney KW16 3HD.
2. The monthly rental was £475.
3. The property has operated as a holiday let for over twenty years.
4. The applicant intended that the respondent vacate the let property by 31 March 2022.
5. The applicant had sought to let the property as a holiday let from April 2022 onwards.
6. The respondent wishes to vacate the property.

Decision

The tribunal had a significant amount of paperwork made available prior to the hearing. This was supplemented by the Affidavit of the first named respondent Benjamin Blydenstein together also with a written submission for the applicant. The issue was in terms of the ground of recovery namely that the applicant would seek to repossess the property on the basis of ground 6 namely that "The landlord intends to use the let property for purpose other than housing".

The issue was one whether using the property as a "short term holiday let" was covered by the definition of a purpose other than housing.

The respondent was not opposed to the application and indeed wished that there be an order made which would enable her to obtain housing through the Local Authority. Her position is one that is not entirely unknown namely that the Local Authority would not look to secure housing for her in the absence of an order. Where she simply to leave she would be deemed as being intentionally homeless and would not be provided with such accommodation.

The tribunal having heard submissions in relation to the case were satisfied that ground 6 did apply in this case and accordingly made the order.

Outcome

To grant an order of eviction.

NOTE: This document is not confidential and will be made available to other First-tier Tribunal for Scotland (Housing and Property Chamber) staff, as well as issued to tribunal members in relation to any future proceedings on unresolved issues.

Legal Member:
2022



Date: 21 October