

Housing and Property Chamber
First-tier Tribunal for Scotland



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/21/0413

Re: Property at Flat 1, 7 Park Circus, Glasgow G3 6AX (“the Property”)

Parties:

Mr Christopher Paul Leonard-Morgan, c/o Tay Letting Ltd, 8 Eagle Street, Glasgow, G4 9XA (“the Applicant”) and

T C Young Solicitors, 7 West George Street, Glasgow, G2 1BA (“the Applicant’s Representative”) and

Mr Bryan Timmons, Flat 1, 7 Park Circus, Glasgow, G3 6AX (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

A Khan- Ordinary Member

Decision in absence of the Respondent

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined as follows:

Background

1. This Application, contained in papers lodged with the Tribunal on 22nd February 2021, was brought in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).
2. The Applicant had provided the Tribunal, in the Application, with copies of the parties’ Private Residential Tenancy Agreement (“the PRT”), the Notice to Leave served on the Respondent and the Section 11 (Homelessness Etc.

(Scotland) Act 2003) Notice intimated to Glasgow City Council. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied. The Applicant also submitted Affidavits of his parents-in-law, Mr and Mrs A McCrindle. His Representative subsequently submitted representations and further papers, including a report from Pegasus Investigations Ltd, dated 8th April 2021.

3. The Respondent had been validly served by Sheriff Officers with the Notification, Application papers and Guidance Notes from the Tribunal on 17th March 2021, and the Certificate of Intimation was produced. Solicitors acting on behalf of the Respondent also corresponded with the Tribunal's office in advance, and in respect, of the Case Management Discussion ("CMD") scheduled for 20th April 2021.

Case Management Discussion

4. The CMD proceeded remotely by telephone conference call at 2.10pm today, 20th April 2021. The Applicants' Representative's Ms K Donnelly attended with the Applicant's letting agent, Mr D Gibb, of Tay Letting Ltd, 8 Eagle Street, Glasgow G4 9XA. The Respondent did not attend and was not represented. Ms Donnelly stated that it would be reasonable if an eviction order were granted as the Applicant's parents-in-law were elderly and had various medical conditions which required ongoing treatment in hospitals in Glasgow rather than in Ayrshire, where they currently reside. She submitted that Mr and Mrs McCrindle had no immediate family in the UK and wished to reside near to extended family in Glasgow for support. Ms Donnelly further submitted that the Respondent was currently in arrears of rent in the sum of £25,460.00, notwithstanding an order for payment having been granted by a Tribunal at another CMD on 8th February 2021. She stated that no rent had been paid since September 2020. Ms Donnelly also referred to the report of Pegasus Investigations Ltd which concluded that the Respondent was resident at an address in Airdrie and two others were staying in the Property, with a number of dogs. She said that various complaints had been made regarding the conduct of the Property occupants. Ms Donnelly submitted that as the Respondent had been served with all papers in respect of the Application for an eviction order, was aware of the CMD and had not attended, and had not made any representations regarding the reasonableness of the granting of an eviction order, such an order should be granted.

Findings in Fact and Law and Reasons for Decision

5. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") the Tribunal is to issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.

6. Schedule 3 (5) (1) of the 2016 Act provides that it is an eviction ground that a member/s of the landlord's family intends to live in the let property and confirms the criteria for the grant of an eviction order on this ground.
7. The Tribunal considered all of the Application papers, including the PRT, Notice to Leave and Affidavits of Mr and Mrs McCrindle, as well as the submissions of the Applicant's Representative's Ms Donnelly and the letters sent to the Tribunal's office by the Respondent's solicitors.
8. The Respondent had not lodged representations with the Tribunal regarding the reasonableness of the grant of an eviction order or attended the CMD to provide any evidence, and/or make any submission, to oppose, and contradict the basis for, the order sought by the Applicant.
9. Having considered all of the evidence, representations and submissions, the Tribunal found that the Applicant sought recovery of the Property to enable qualifying relatives, his parents-in-law, to occupy the Property as their only or principal home for at least 3 months, in particular to assist them in receiving ongoing medical treatment, that the terms of Schedule 3 (5) (1) of the 2016 Act were satisfied and that it was reasonable that an eviction order be granted.

Decision

10. The Tribunal therefore made an eviction order as sought in this Application.

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.

G. McWilliams

20th April 2021

Legal Member

Date