



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/22/1928

Re: Property at 22 Friar Street Craigie, Perth, PH2 0ED (“the Property”)

Parties:

Mrs Elizabeth Nicoll, 5 Sutherland Crescent, Dundee, DD2 2HP (“the Applicant”)

Mrs Lee Mulvey Haworth, 22 Friar Street Craigie, Perth, PH2 0ED (“the Respondent”)

Tribunal Members:

Andrew Upton (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent

STATEMENT OF REASONS

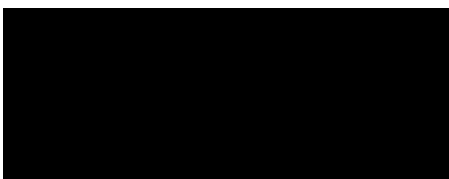
1. This Application called for its Case Management Discussion, together with the related application CV/22/1930, by teleconference call on 26 October 2022. The Applicant was present and also represented by Mr Mellis, solicitor. The Respondent was neither present nor represented.
2. In this Application, the Applicant seeks an eviction order. She says that she intends to sell the Property and that it is reasonable to grant the eviction order. She relies on a Notice to Leave properly served on the Respondent specifying that she requires possession of the Property under Ground 1 of Schedule 5 to the Private Housing (Tenancies) (Scotland) Act 2016. She says that, having returned to Scotland from Australia, she now requires to stay indefinitely and assist her ill father. The stress associated with being a

landlord is too much for her in addition to her personal circumstances, and so she requires to sell the Property.

3. In terms of Rule 2 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017, the Tribunal requires to have regard to the overriding objective to deal with proceedings justly when making any decision. That includes the need to avoid unnecessary delay. In terms of Rule 17(4), the Tribunal also has the power to do anything at a CMD that it may do at a Hearing, including make a decision.
4. The Respondent has received notice of the Application and the CMD, but has chosen not to lodge written representations or appear at the CMD to dispute the Applicant's allegations in the Application. It is therefore the Tribunal's view that the Respondent does not dispute that (i) the Applicant intends to sell the Property, or (ii) it is reasonable to grant an eviction order in the circumstances.
5. Separately, the Tribunal noted from the related proceedings that the Respondent is in rent arrears of £9,465; which arrears began to accrue after service of the Notice to Leave. Since service of the Notice to Leave, the Respondent has made one payment only, which was in the sum of £160 on or around 31 January 2022. It seems reasonable to infer that the Respondent decided to stop paying rent as a consequence of receiving the Notice to Leave. That tends to shift the balance of reasonableness towards the Applicant's favour.
6. For all of those reasons, the Tribunal determined that Ground 1 of Schedule 5 is satisfied, in that the Applicant intend to sell the Property and it is reasonable to grant an eviction order. The Tribunal granted the order sought.
7. For completeness, the Tribunal determined for the purposes of section 51(4) of the 2016 Act that the Private Residential Tenancy between the Parties ended on 26 October 2022.

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.



Legal Member/Chair

26/10/2022

Date