



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/21/0482

Re: Property at 148 Millcroft Road, Cumbernauld, Glasgow, G67 2QH (“the Property”)

Parties:

Adelphi Scott Limited, 19 Adelphi, Aberdeen, AB11 5BL (“the Applicant”)

Mr Ionica Tereaca, Ms Ema Loredana Cocosila, 166 Kingsacre Road, Glasgow, G44 4LY (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Leslie Forrest (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

The Applicant seeks an Eviction Order in respect of Grounds 10 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that it is said the Respondents are no longer occupying the Property.

The Application called for a Case Management Discussion at 2 pm on 28 April 2021. The Applicant was represented by Ms Elle Piaget of Core Citi Limited. There was no appearance by or on behalf of the Respondents.

Sheriff Officers had served the Application and information about how to join the conference call on the Respondents on 29 March 2021. The Tribunal was therefore satisfied that it was fair to proceed in their absence.

Preliminary issues

The Tribunal noted that the Notice to Leave that supported the Application had not adequately provided the Respondent with the correct period of notice. A date of 22 December 2020 had been provided but this date did not adequately allow for the presumption that 48 hours should be allowed before the documents are deemed to have been received as set out in s62(5) of the Act.

However, after considering this issue and hearing the wider circumstances of the case the Tribunal considered this to be a minor error as described by s73 of the Act and in terms of that section decided to excuse any minor error in the date set out in the Notice to Leave which in the circumstances of this case appeared trivial.

Ms Piaget referred the Tribunal to Sheriff Officer reports that confirmed that the Respondents had been traced as living elsewhere. Ms Piaget also had produced inspection reports that detailed that the Respondents were not present in the Property on numerous occasions and also letters sent to the Property asking the Respondents to respond had gone unacknowledged.

The Tribunal considered there was little doubt that the Respondents were not living in the Property. The Tribunal also carefully questioned Ms Piaget on the reasonableness of granting the eviction order and was satisfied that it had a sufficient basis for making a decision.

Having considered the Application and enclosures and having heard from Ms Piaget, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The parties entered into a tenancy which commenced on 9 April 2019;*
- II. *The Applicant was the landlord and the Respondents were the tenants;*
- III. *The Respondents no longer live at the Property and are now living at 166 Kingsacre Road, Glasgow.*
- IV. *The terms of Grounds 10 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 is engaged in that the Respondents are no longer occupying the let property.*

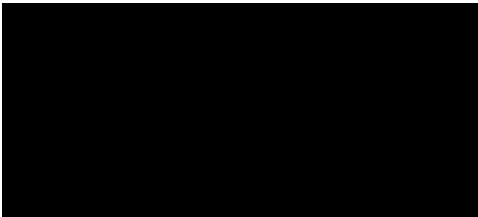
V. *It is reasonable to grant the order for eviction.*

Reasons for Decision

Having made the above findings in fact, the Tribunal granted the Application and made the Eviction Order as sought.

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

28/04/2021

Date