



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/20/0442

Re: Property at 7 Whitson Walk, Edinburgh, EH11 3BX (“the Property”)

Parties:

Mr Andrew McGuigan, 33 Hillview Crescent, Edinburgh, EH12 8QF (“the Applicant”)

Miss Erin Leigh Roberts, 7 Whitson Walk, Edinburgh, EH11 3BX (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent(s) for eviction of the Respondent(s) from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 3 of schedule 3 to the said Act.

- Background
- 1. An application dated 7 February 2020 was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought a repossession order against the Respondent on the basis of the Applicant’s intention to refurbish the Property, being Ground 3 under Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”).

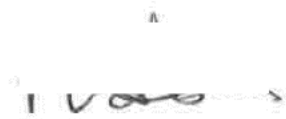
- Case Management Discussion
2. A Case Management Discussion (“CMD”) took place on 18 August 2020 by tele-conference. Both parties were personally present.
 3. An application submitted under Rule 111 seeking an Order for Payment of arrears of rent was also considered at the CMD, under case reference FTS/HPC/CV/20/0520.
 4. The Applicant moved for the Order to be granted as sought. The Applicant wishes to carry out refurbishment to the property and a fee proposal from Lance Contract Services was lodged alongside the application which set out the works being quoted for, which included stripping all walls in the rear bedroom, re-plastering and redecoration of said bedroom, full refurbishment of the bathroom, replacing flooring in the kitchen and stripping/replacing flooring in the living room, hall, vestibule and front bedroom. It was submitted that said works could not be done with the Respondent remaining resident in the property.
 5. The Respondent confirmed that she had no opposition to the application being made. She did not want to reside in the property any longer.
 6. The following documents were lodged alongside the application:
 - (i) Copy Private Residential Tenancy Agreement
 - (ii) Copy Notice to Leave
 - (iii) Proof of service of the Notice to Leave by email
 - (iv) Fee proposal from Lance Contract Services
 - (v) Section 11 notification to the local authority under the Homelessness etc. (Scotland) Act 2003
- Findings in Fact
7. The Tribunal made the following findings in fact:
 - (i) The parties entered into a Private Residential Tenancy Agreement which commenced on 31 May 2018;
 - (ii) The Applicant served a Notice to Leave on the Respondent on the basis of Ground 3 of Schedule 3 to the 2016 Act;
 - (iii) The Applicant intends to refurbish the property, he is entitled to do so and it would be impracticable for the tenant to continue to occupy the property given the nature of the refurbishment intended.
- Reasons for Decision
8. The Tribunal was satisfied that the terms of Ground 3 of Schedule 3 to the 2016 Act had been met, namely that the Applicant intends to refurbish the property, he is entitled to do so and it would be impracticable for the tenant to continue to occupy the property given the nature of the refurbishment intended. The Tribunal was satisfied that a Notice to Leave had been served on the

Respondent and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act.

- Decision
9. The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 3 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

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.



Fiona Watson

Legal Member/Chair

18 August 2020

Date