



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 52 of the Private Housing
(Tenancies) Act 2016**

Chamber Ref: FTS/HPC/EV/20/1836

Re: Property at 4 Pembroke, East Kilbride, G74 3QB (“the Property”)

Parties:

Mr Anura Suriyapperuma, 79 Craigour Crescent, Edinburgh, EH17 7NP (“the Applicant”)

Mr Graeme Paul, 4 Pembroke, East Kilbride, G74 3QB (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member)

Decision (in absence of the Respondent)

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

Background

On 31st August 2020 the Applicant lodged an application with the Tribunal under Rule 109 of the First Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“The Procedure Rules”), seeking eviction of the Respondent using Ground 4 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

Lodged with the application were:-

1. Tenancy Agreement dated 23rd March 2018.
2. Notice to Leave.
3. Section 11 Notice.

The application was served on the Respondent by Sheriff Officer.

On 19th October 2020 the Respondent emailed the Tribunal's Administration to say that he had left the property and returned the keys, but that the Applicant was saying that he had not returned the keys and was refusing to accept that the Respondent had left.

ON 20th October 2020 the Applicant sent an email to the Tribunal, in response to the Respondent's email, to say that he had not received the keys and felt that he had no legal right to treat the tenancy as terminated.

On 20th October 2020 the Respondent sent a further email in response, stating that the Applicant was awkward, and also stating that the Applicant had no intention of moving back in to the property and was using it as a way to get round the legislation. He concluded by saying that " I have no more time to deal with this he has the keys I have left the property and will not be dealing with him any further."

On 21st October 2020 the Respondent sent an email saying that he was unable to attend the Case Management Discussion.

Case Management Discussion

The Case Management Discussion ("CMD") took place by teleconference. The Applicant dialled in. The Respondent did not.

The Chairperson asked if, in light of the emails received from the Respondent, which indicated that he had vacated the property, the Applicant wished to withdraw his application. The Applicant was reluctant to do so. He wished to be compliant with the law and did not feel comfortable in treating the tenancy at an end without an order, particularly given that it was his position that the Respondent still retained a set of keys.

The Applicant confirmed that he and his wife were going to move back in to the property.

Findings In Fact

1. The parties entered in to a tenancy agreement in relation to the property;
2. A Notice to Leave was served correctly on the respondent;
3. The Respondent has confirmed in writing that he has vacated the property;
4. The Applicant intends to occupy the property as
5. It is reasonable in the circumstances to grant the order.

Reasons For Decision

The Chairperson was satisfied that the ground had been met, and was also satisfied that the Respondent had accepted the position and left the property, given the terms of the emails which he had sent to the Tribunal.

Schedule 1, paragraph 1 of the Coronavirus (Scotland) Act 2020 amends all grounds of eviction in Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 to be discretionary. The Tribunal must therefore be satisfied that it is reasonable to grant the order.

In the circumstances, given that the Respondent had clearly indicated that he had left the property, and that the Applicant did not want to proceed to take possession without the security of the order, it seemed wholly reasonable to grant the order.

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.

Alison Kelly

Legal Member/Chair

_____**22.10.2020**_____
Date