



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/21/0696

Re: Property at 33 Dalkeith Road, Dundee, DD4 6JT (“the Property”)

Parties:

IB Murray and Son on behalf of Mr and Mrs Horsfield, 87 Perth Road, Dundee, DD1 4HZ (“the Applicant”)

Miss Demi-Leigh Hunt, residing at the Property and Mr Liam Phin, whereabouts unknown (“the Respondents”)

Tribunal Members:

Maurice O’Carroll (Legal Member) and Melanie Booth (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Possession of the Property should be granted to the Applicant.

Background

1. An application for an Order for Eviction dated 12 March 2021 was lodged with the First-tier Tribunal by Messrs Baillie Shepherd, solicitors, on behalf of the Applicant. A Case Management Discussion (“CMD”) was conducted by means of a telephone conference call on 4 June 2021, commencing at 10am.
2. Mr Kenneth Glass, solicitor with Messrs Baillie Shepherd appeared on behalf of the Applicant. The first co-respondent did not attend but was represented by Ms Rebecca Menzies of the Dundee Law Centre. The second co-respondent (joint tenant), Mr Liam Phin appeared in person. Mr Phin’s whereabouts were unknown at the time of the application. After reasonable efforts were made by Sheriff Officers to trace him but were unsuccessful, service by means of advertisement was permitted by the Tribunal as vouched the Certificate issued on 4 June 2021 by the Tribunal.

3. The application was brought as provided for in Part 1 to Schedule 3(12) of the 2016 Act, namely non-payment of rent for a period of three consecutive months. In fact, no rent had been paid by the respondents since 30 March 2020, more than a year prior to the hearing date. Ordinarily, that would be a compulsory ground for eviction. However, as a result of the Coronavirus (Scotland) Act 2020, that compulsory ground was converted to a discretionary ground for consideration by the Tribunal. The Tribunal was therefore required to consider the merits of the application.

Proceedings at the CMD

4. The Tribunal noted that a Notice to Leave enclosed with a letter dated 5 August 2020 had been validly served on both Respondents. Mr Phin was served as indicated above. An extended period of six months applied due to the operation of Covid provisions.
5. Ms Menzies indicated that on behalf of her client, she did not oppose the granting of the Order for eviction. An Order was necessary for her client to be eligible for social housing provided by the local authority. Mr Phin likewise did not oppose the granting of the Order for eviction.

Findings in fact

6. The parties entered into a rental agreement dated 18 March 2019, commencing on 29 March 2019. In terms of the rental agreement, the rent payable was £625 per calendar month, payable on the 29th of each month.
7. A valid Notice to Leave was issued to the Respondent on 5 August 2020. The notice period of 6 months expired on 6 February 2021 in terms of that notice.
8. Notice to the Local Authority was served in compliance with section 11 of the Homelessness Etc. (Scotland) Act 2003 on or about 12 March 2021.
9. The Applicants wish to insist on their right to gain possession of their property. This is not opposed by either tenant to the Property.
10. The necessary ground for eviction has been made out by the Applicant and the appropriate period of notice for that ground has been given by the Applicant.

Decision

11. In light of the above findings in fact, the Tribunal granted the Order for Possession sought by the Applicant.

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.

Maurice O'Carroll

4 June 2021

Legal Member/Chair

Date