



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/21/0800

Re: Property at Flat F 223 Rosemount Place, Aberdeen, AB25 2XS (“the Property”)

Parties:

Mr Emmanuel Bamgboye, 39 Kirkhill Road, Aberdeen, AB11 8FT (“the Applicant”)

Mr Dion Hughes and Mr Sean Outteridge, Flat F 223 Rosemount Place, Aberdeen, AB25 2XS (“the Respondents”)

Tribunal Members:

John McHugh (Legal Member) and Linda Reid (Ordinary Member)

Decision (in absence of the Respondents)

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

Background

The Applicant is the landlord and the Respondents the tenants under a private residential tenancy agreement in respect of the Property dated 18 December 2020.

The Applicant seeks the eviction of the Respondents by reason of their anti-social behaviour.

The Case Management Discussion

A Case Management Discussion (“CMD”) took place on 2 June 2021 by telephone conference. The Applicant was in attendance. The Respondents neither appeared

nor were represented. The Tribunal has received no contact at all from the Respondents. The Applicant advised that a neighbour has told him that the Respondents had expressed the intention to attend the CMD. The same neighbour had reported to him that the Respondents appeared to be in the course of moving out.

The Tribunal was satisfied that the Respondents had received notification of the CMD via Sheriff Officer and that it should proceed in their absence.

Findings in Fact

The Applicant is the landlord and the Respondents the tenants under a private residential tenancy agreement in respect of the Property dated 18 December 2020.

Since January 2021 the Applicant has received multiple complaints from neighbours about the Respondents' conduct.

Neighbours have complained of excessive noise, damage to the garden, soiling of the common hallway, the leaving of dog faeces and the failure by the Respondents to control their dogs. Neighbours have complained of feeling intimidated by the Respondents.

Neighbours have also complained to the local authority. The local authority have indicated to the Applicant that he is obliged to attempt to control the Respondents' behaviour.

The Applicant has spoken to the Respondents about their anti-social behaviour but they have refused to alter it.

Reasons for Decision

Paragraph 14 of schedule 3 to the 2016 Act provides:

"(1) It is an eviction ground that the tenant has engaged in relevant anti-social behaviour.

(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—

(a) the tenant has behaved in an anti-social manner in relation to another person,

(b) the anti-social behaviour is relevant anti-social behaviour, and

(c) either—

(i) the application for an eviction order that is before the Tribunal was made within 12 months of the anti-social behaviour occurring, or

(ii) the Tribunal is satisfied that the landlord has a reasonable excuse for not making the application within that period.

(3) For the purposes of this paragraph, a person is to be regarded as behaving in an anti-social manner in relation to another person by—

- (a) *doing something which causes or is likely to cause the other person alarm, distress, nuisance or annoyance,*
- (b) *pursuing in relation to the other person a course of conduct which—*
- (i) *causes or is likely to cause the other person alarm, distress, nuisance or annoyance, or*
- (ii) *amounts to harassment of the other person.*
- (4) *In sub-paragraph (3)—*
- “conduct” includes speech,*
- “course of conduct” means conduct on two or more occasions,*
- “harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997.*
- (5) *Anti-social behaviour is relevant anti-social behaviour for the purpose of sub-paragraph (2)(b) if the Tribunal is satisfied that it is reasonable to issue an eviction order as a consequence of it, given the nature of the anti-social behaviour and—*
- (a) *who it was in relation to, or*
- (b) *where it occurred.*
- (6) *In a case where two or more persons jointly are the tenant under a tenancy, the reference in sub-paragraph (2) to the tenant is to any one of those persons.”*

The Tribunal finds that: the Respondents have behaved in an anti-social manner in relation to another person, being the various neighbours who have complained; the Respondents' anti-social behaviour is relevant anti-social behaviour given it directly affects the neighbours; and the current application for an eviction order that is before the Tribunal was made on 29 March 2021, within 12 months of the anti-social behaviour occurring.

The Tribunal accordingly considers it appropriate to make an eviction order. The Tribunal noted an error in the calculation of the date completed by the Applicant in his Notice to Leave as the date upon which he anticipated being able to commence an application to the Tribunal. He had completed the Notice with the date 20 February 2021 rather than 21 February. At the Applicant's request, the Tribunal applied the terms of section 73 of the 2016 Act. The Tribunal considers the error does not materially affect the effect of the document and that the Notice is valid.

Decision

An order for eviction of the Respondents will be granted.

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.

John McHugh

Legal Member: John McHugh

Date: 2 June 2021