



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/21/1476

Re: Property at 30 Assynt Bank, Penicuik, Midlothian, EH26 8JN (“the Property”)

Parties:

Mrs Monique Blair, York South Campsire, Roydon Lodge, Broad Lane Cawood Common, Selby, YO8 3RA (“the Applicant”)

Mr Stuart Andrew McKerchar, Ms Lyndsay King, 30 Assynt Bank, Penicuik, Midlothian, EH26 8JN; 30 Assynt Bank, Penicuik, Midlothian, EH26 8JN (“the Respondents”)

Tribunal Members:

Rory Cowan (Legal Member) and Helen Barclay (Ordinary Member)

Decision

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

- Background

By application dated 14 July 2021 (the Application) the Applicant sought an Eviction Order against the Respondents in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (2016 Act). With the Application, the Applicant submitted various supporting documents including a copy of the lease, the Notice to Leave dated 15 October 2020 as well as contracts and information for estate agents instructed to sell the Property. A Case Management Discussion (CMD) was scheduled for 16 September 2021 to be heard by way of conference call. In advance of the CMD (by email dated 2 September 2021) the Applicant submitted further vouching in terms of estate agent documentation.

- The Case Management Discussion

At the CMD the Applicant was represented by a Mr Napier solicitor. Both Respondents appeared and represented themselves. Mr Napier moved that the Application be granted. The Respondents acknowledged they had received the Application and the further documentation submitted on behalf of the Applicant. They indicated that they did not wish to oppose the Application and were content that it be granted.

- Findings in Fact and Law

- 1) The Applicant and Respondents entered into a Private Residential Tenancy for the Property which commenced on 30 August 2019.
- 2) In terms of the Private Residential Tenancy agreement, the Respondents consented to and provided email addresses to allow electronic communication.
- 3) By Notice to Leave dated 15 October 2020 sent electronically the Applicant gave notice to the Respondents of her intention to recover possession of the Property in terms of Ground 1 of the Private Housing (Tenancies)(Scotland) Act 2016 and confirmed that proceedings would not be raised before 18 April 2021.
- 4) The Notice to Leave was in the prescribed format.
- 5) That the Applicant intends to sell the Property or at least put it up for sale within 3 months following the Respondents vacating same.
- 6) That the Applicant has complied with all notice requirements in terms of the Private Housing (Tenancies)(Scotland) Act 2016 and that Ground 1 of Schedule 3 has been made out.
- 7) That, in the circumstances, it is reasonable to grant an Eviction Order against the Respondents.

- Reasons for Decision

The Applicant sought an Eviction Order in order to sell the Property. The Notice to Leave complied with all legislative requirements and the Application was submitted with appropriate vouching and was in proper form. The Respondents indicated that they did not oppose the Application and were content that the Eviction Order sought be granted. In the circumstances, the requirements of Ground 1 of the 2016 Act being met and the Respondents consenting to the Order being granted there was no basis for finding that it would not be reasonable to grant the order, the Tribunal therefore resolved to grant the Application.

- Decision

That an Eviction Order relative to the Property should 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.

R Cowan

Legal Member/Chair

16 September 2021
Date