



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/21/1492

Re: Property at 48 North Seton Park, Port Seton, EH32 0BA (“the Property”)

Parties:

Mrs Carole Brownlee, 17 North Seton Park, Port Seton, EH32 0AE (“the Applicant”)

Ms Sharon Muir, 48 North Seton Park, Port Seton, EH32 0BA (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

- Background

This is an application for an eviction order against the Respondent, who occupies the Property in terms of a private residential tenancy agreement with the Applicant. It called for a case management discussion (‘CMD’) at 10am on 9 December 2021, by teleconference. The Applicant was on the call in-person and was represented by Mr McLeod of Garden Stirling Burnet, solicitors. The Respondent did not call in to the conference and was not represented. The commencement of the CMD was delayed by 10mins to allow for any technical difficulty she may have been experiencing, but there remained no contact from her.

The case had called at previous CMDs on 2 September and 18 October 2021. The Respondent had failed to appear at both of those. The Tribunal was satisfied that she had elected not to attend and that it was fair to proceed in her absence.

At the previous CMDs the Tribunal indicated that it required further information and had made directions for written submissions from the Applicant. A final, full set of submissions was received from him on 11 November 2021. The Respondent elected not to make any submission.

- Findings in Fact

1. The Respondent lets the Property from the Applicant in terms of a private residential tenancy with a start date of 1 February 2019.
2. On 9 March 2021, the Applicant sent a notice to leave to the Respondent.
3. The eviction ground identified in the notice to leave was, “Your landlord intends to live in the Let Property.”
4. The earliest date that Tribunal proceedings could start was identified in the notice to leave as 12 June 2021.
5. The Applicant intends to live in the Property as her only or principal home on a permanent basis.
6. It is reasonable to issue an eviction order for that reason.

- Reasons for Decision

7. The Tribunal was not presented with any information from the Respondent to suggest that it would be unreasonable to grant the order, despite the Applicant’s intention to occupy the Property. On that basis, the Tribunal, having found that that was indeed her intention, concluded that it was

reasonable to grant the order. It is *prima facie* reasonable that the owner of a house should be allowed to use that property for their own housing needs first and foremost.

- Decision

Eviction order 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.

N. Young

Legal Member/Chair

9 December 2021

Date