



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 (“The Act”)

Chamber Ref: FTS/HPC/EV/21/2934

Re: Property at Rorki Cottage, 21 Melgum Road, Tarland, AB34 4ZL (“the Property”)

Parties:

Mrs Dawn Tyson, Lovedays Mill, Beech Lane, Painswick, Stroud, GL6 6SH (“the Applicant”)

Ms Andrea Davidson, 21 Strathmore Drive, Aberdeen, AB16 6SU (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Janine Green (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

The Applicant seeks an Eviction Order based on Ground 10 of Schedule 3 of the Act in that it is said that the Respondent is not occupying the Property as the Respondent’s home.

The Applicant has provided evidence in support of their position together with a copy of the tenancy and a Notice to Leave served on the Respondent on 15 October 2021. This Notice called upon the Respondent to vacate the Property before 15 November 2021 by which date an Application would be submitted to this Tribunal should the Respondent continue to occupy the Property.

The Case Management Discussion

The Application called as a Case Management Discussion (CMD) by conference call at 10 am on 1 March 2022. The Applicant was personally present together with her husband as a supporter. There was no appearance by or on behalf of the Respondent.

The Applicant's position was that the Respondent had vacated the Property and moved to a new address at 21 Strathmore Drive, Aberdeen. Sheriff Officers had successfully served the Application and information about how to join the conference call on the Respondent at the address at 21 Strathmore Drive on 26 January 2022. The certificate of execution of service also confirms that the Sheriff Officers had taken steps to confirm that the Respondent now lived at that address.

The Tribunal decided to proceed with the CMD in the absence of the Respondent on the basis that the Respondent had fair notice of today's proceedings.

The Tribunal discussed the documentary evidence submitted with the Applicant and asked questions to establish the reasonableness or otherwise of granting any order.

Having done so, the Tribunal made the following findings in fact.

Findings in Fact

- I. The parties entered into a tenancy of the Property which commenced on 24 December 2020;*
- II. The Applicant was the landlord and the Respondent was the tenant;*
- III. The Applicant came to suspect that the Respondent had abandoned the Property;*
- IV. The Respondent stopped paying rent;*
- V. The Respondent was not seen at the Property and parcels and mail were left outside unattended to;*
- VI. The Applicant inspected the Property and noted that the electricity meter appeared to indicate no electricity was being used;*
- VII. The Applicant found out through friends that the Respondent was living at a new address in Aberdeen;*

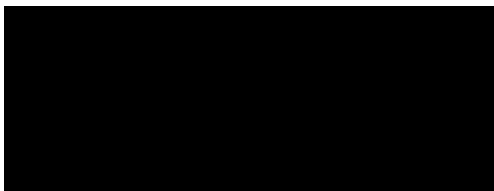
- VIII. *The Respondent refused to correspond with the Applicant;*
- IX. *A set of keys to the Property were unexpectedly handed in to a letting agent used by the Applicant;*
- X. *Sheriff Officers have satisfied themselves that the Respondent lives at 21 Strathmore Drive, Aberdeen;*
- XI. *The Respondent accordingly no longer occupies the Property as her home;*
- XII. *The Applicant has lawfully served a Notice to Leave providing the Respondent with the correct notice period relevant to the ground of eviction founded upon;*
- XIII. *The Applicant has complied with s11 of the Homelessness Etc. (Scotland) Act 2016;*
- XIV. *It is reasonable that the order sought is granted.*

Reasons for Decision

Having made the above findings in fact, the Tribunal decided to grant the Application and made an Eviction 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.



Legal Member/Chair

01/03/2022

Date