



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/21/3086

Re: Property at 7 Grove Hill, Kelso, TD5 7AR (“the Property”)

Parties:

Mrs Sarah Hey, Loanknowe Farm, Kelso, TD5 7QT (“the Applicant”)

Mr Gregor Whipps, 7 Grove Hill, Kelso, TD5 7AR (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

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 case management discussion (‘CMD’) at 10am on 27 July 2022, by teleconference. The Applicant was on the call in person and was also represented by Ms Wilson of Melrose & Porteous, solicitors. The Respondent was on the call in person.

A previous CMD took place on 12 May 2022, at which, among other things, the Tribunal agreed to exercise its power in terms of s.73 of the Private Housing (Tenancies) (Scotland) Act 2016 to overlook an error in the notice to leave relied on, it having no material effect on the effect of the notice.

- Findings in Fact

1. The Applicant lets the Property to the Respondent in terms of a private residential tenancy with a start date of 20 September 2020.
2. On 30 August 2021, the Applicant sent the Respondent a notice to leave stating that she wished to rely on the ground that she intended to occupy the Property herself to evict him.
3. The notice to leave stated that the earliest date an application would be made for eviction was 4 December 2021.
4. This application was made on 10 December 2021.
5. The Applicant needs to move into the Property as result of her current accommodation no longer being suitable for her, due to a breakdown of her relationship.
6. The Applicant's current living situation is having a significant negative effect on her health and wellbeing.
7. The Applicant does not have any other practical alternative accommodation.
8. The Applicant intends to occupy the let property as her only or principal home for at least 3 months.
9. The Respondent has been assured that he will be rehoused by the local authority prior to or upon eviction.

- Findings in Fact and Law

10. The error in the date stated on the notice to leave does not materially affect the effect of the notice.

11. It is reasonable to issue an eviction order on account of finding in fact 8. above.

- Reasons for Decision

12. The Respondent indicated at the CMD that he does not dispute the factual background as set out above.

13. On the basis of those facts, Ground 4 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 is established and the Tribunal must make an order for eviction.

- Decision

Eviction order made.

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.

Nairn Young

29/07/2022

Legal Member/Chair

Date