



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

Chamber Ref: FTS/HPC/EV/22/1731

Re: Property at 75 Haughburn Road, Glasgow, G53 6AN (“the Property”)

Parties:

Ms Benasir Abdulrafi, 144 Gairbraid Avenue, Glasgow, G20 8AB (“the Applicant”)

Mr Stephen Hogan, 75 Haughburn Road, Glasgow, G53 6AN (“the Respondent”)

Decision (in absence of the Respondent)

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

Background

1. This is an application received in the period between 8th June and 19th July 2022 and made in terms of Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (‘the Rules’). The Applicant is the landlord of the Property, and the Respondent is the tenant, in terms of a private residential tenancy that commenced on 1st January 2020, with rent due in the sum of £650 per month.
2. The Applicant lodged a copy of the tenancy agreement, which purported to be a short assured tenancy, a Notice to Leave dated 18th January 2022, stating that an application would not be made to the Tribunal before 25th April 2022, with evidence of service, and a section 11 notice, with evidence of service. The Applicant is seeking an order for eviction under ground 4 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”).
3. Notification of the application and a Case Management Discussion was served upon the Respondent by Sheriff Officers on 14th September 2022.

The Case Management Discussion

4. A Case Management Discussion took place by telephone conference on 24th October 2022. The Applicant was in attendance. The Respondent was not in attendance.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the CMD and that the requirements of Rule 17(2) had been satisfied and it was appropriate to proceed with the application in the absence of the Respondent.
6. The Applicant said she had been living between the United Kingdom and Singapore for two years, but she is now living and working in the United Kingdom. She has been living with her mother, who intends to move to London in the near future. The Applicant requires the Property to live in as her only or principal home, and will not be renting the Property out again.
7. Responding to questions from the Tribunal, the Applicant said she found the short assured tenancy agreement online and was unaware it was the incorrect type of tenancy agreement until recently.
8. Responding to questions from the Tribunal, the Applicant said she understands the Respondent lives alone and is in employment. He informed her last year that he could not work due to Covid-19, and that he would be claiming benefits. He provided a screenshot that stated he was awaiting benefits. She never received any benefits direct, but she assumed the Respondent had received benefits. She thought he had gone back to work after that period. She had been concerned that he might sub-let the Property as he had mentioned this in the past, but she had no evidence to suggest this was happening.
9. The Applicant said the Respondent is in rent arrears and has not paid his rent for a period of ten months.
10. The Tribunal adjourned to consider matters.

Findings in Fact and Law

11.
 - (i) Parties entered into a tenancy agreement in respect of the Property, which purported to be a short assured tenancy that commenced on 1st January 2020.
 - (ii) The tenancy was a private residential tenancy.
 - (iii) The Applicant intends to live in the Property as their only or principal home for at least three months.

- (iv) Notice to Leave has been served upon the Respondent.
- (v) It is reasonable to grant an eviction order.

Reasons for Decision

12. The Tribunal is satisfied that the tenancy is a private residential tenancy, by virtue of its commencement date, notwithstanding that the tenancy agreement used is a short assured tenancy.
13. The Tribunal is satisfied that the necessary Notice to Leave has been correctly issued to the Respondent in terms of the Act.
14. Ground 4 of Schedule 3 of the Act provides that it is an eviction ground if the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months. The Tribunal is satisfied on the information before it that Ground 4 has been established.
15. The Tribunal took into account all the information before it and considered that a *prima facie* case in respect of reasonableness had been made out by the Applicant.
16. Unfortunately, the Respondent was not in attendance to put forward any reasons why it would not be reasonable to grant the order, despite having been notified of the application and the CMD.
17. In all the circumstances, the Tribunal considered it reasonable to grant the order sought.

Decision

18. An eviction order in respect of the Property is 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.

H Forbes

Legal Member/Chair

24th October 2022
Date