



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/22/2160

Re: Property at 227 Brockburn Road, Crookston, Glasgow, G53 5TL (“the Property”)

Parties:

Mr Mark McNally, 24 Balerno Drive, Mosspark, Glasgow, G52 1NB (“the Applicant”)

Mr Jack Lenehan, 227 Brockburn Road, Crookston, Glasgow, G53 5TL (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Elizabeth Currie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made an Eviction Order.

Background

The Applicant seeks an Eviction Order on the basis of Ground 1 of Schedule 3 of the Act in that it is said that the Applicant wishes to sell the let Property. The Application is accompanied by a copy of the relevant tenancy agreement; the relevant Notice to Leave and proof of it having been competently served together with the relevant notice under s 11 of the Homelessness (etc) Scotland Act 2003.

The Case Management Discussion

The Application called for a Case Management Discussion (CMD) by conference call at 2 pm on 5 October 2022. The Application called alongside a related Application in respect of a Payment Order. The Applicant was represented by Mr Haq of Martin & Co. The Respondent was personally present. Both parties confirmed that they were ready to proceed and had no preliminary matters to raise.

Mr Haq confirmed that the Applicant was resident in Australia and wished to sell the Property because he wanted to reduce ties to Scotland. The Respondent's position was that he had no reason to disbelieve the Applicant's intentions. The Respondent also confirmed having received the Notice to Leave and explained that he had then immediately stopped paying rent. It was clear to the Tribunal this was as a form of retaliation for having received the notice.

The Tribunal discussed all aspects of the Application with the parties and then adjourned to consider matters. Having done so, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondent on a Private Residential Tenancy which commenced on 31 January 2019;*
- II. *The contractual monthly rent was £595.00;*
- III. *On 1 April 2022 the Applicant competently served a Notice to Leave on the Respondent based on Ground 1 of Schedule 3 of the Act;*
- IV. *The Notice to Leave correctly informed the Respondent that no Application would be lodged with the Tribunal before 29 June 2022;*
- V. *The Applicant wishes to sell the Property because he lives in Australia and wishes to reduce his associations with Scotland;*
- VI. *The Respondent is not particularly opposed to leaving the Property and is more concerned about ensuring he is not considered intentionally homeless;*
- VII. *The Respondent had taken advice and had made an application to the council for rehousing which has been accepted;*
- VIII. *The Applicant has complied with his obligations under s 11 of the Homelessness (etc) (Scotland) Act 2003;*

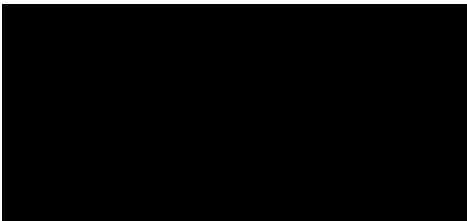
- IX. *The Respondent lives in the Property with his partner Karen Brown and their pet dog. The Respondent works full time as a learning inclusion advisor for Glasgow Clyde College. His partner works seasonally in a bowling club;*
- X. *The Respondent expresses no intention to make any further rental payments;*
- XI. *Ground 1 of Schedule 3 of the Act is established and it is reasonable that an Eviction Order is made.*

Decision

Having made the above findings in fact, the Tribunal granted 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

6th October 2022
Date