



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/22/3715

Re: Property at 65 Kintillo Place, Bridge of Earn, Perth, PH2 9AS (“the Property”)

Parties:

Mr Neil Smith, Ms Katie Glynn, 25 Darlaston Road, London, SW19 4LJ (“the Applicant”)

Mr Garry David Moir, Ms Marion Boyd Cook McDiarmid, 6 McDonald Park, Balbeggie, Perth, PH2 6HG; 2 Manse Place, Dunning, Perth, PH2 0RN (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Melanie Booth (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 Applicants seek an Eviction Order in terms of Ground 12 of Schedule 3 of the Act. The Application is accompanied by a copy of the tenancy agreement, the notice to leave relied on and proof its service, evidence of compliance with s11 of the Homelessness (etc) (Scotland) Act 2003, rent statements and evidence of compliance with The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020.

The Case Management Discussion

The Application called for a Case Management Discussion (CMD) alongside a related Application in respect of a Payment Order between the parties at 10 am on 3 March 2023. The Applicants were represented by Ms Donnelly of TC Young, solicitors. The Respondents were personally present. The Respondent confirmed that they had vacated the Property albeit they had left some items in the garage. They both now lived elsewhere. They had no objection to an Eviction Order being granted. The Respondents contested that the rent arrears claimed in the Payment Order were lawfully due but they did readily acknowledge that three months' worth of rent arrears were lawfully due.

After hearing from parties and having considered the Application, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The parties entered into a tenancy agreement whereby the Applicants let the Property to the Respondents on a Private Residential Tenancy that commenced on 27 February 2019;*
- II. *The contractual monthly rent was £795;*
- III. *The Respondents fell into arrears of rent and on 1 February 2022 the Applicants served a notice to leave under ground 12 of Schedule 3 of the Act;*
- IV. *On that date and also as at today's date, the ground set out in the notice to leave was and remains established;*
- V. *The Applicants have complied with s11 of the Homelessness (etc) (Scotland) Act 2003 and also The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020;*
- VI. *The Respondents live elsewhere and have no desire to remain associated with the Property albeit they have left some items there;*
- VII. *It is reasonable to grant an Eviction Order.*

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.

Andrew McLaughlin

Legal Member/Chair

3 March 2023

Date