



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/23/0203

Re: Property at Flat 3/1 1 Brabloch Park, Paisley, PA3 4QD (“the Property”)

Parties:

Bank of Scotland Plc (Birmingham Midshires), The Mound, Edinburgh, EH1 1YZ (“the Applicant”)

Mr Amos Oghenerioborue Udeni, Flat 3/1 1 Brabloch Park, Paisley, PA3 4QD (“the Respondent”)

Tribunal Members:

Nairn Young (Legal Member) and Elizabeth Currie (Ordinary Member)

Decision

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

- Background

This is an application for an order for eviction against the Respondent, who occupies the Property in terms of a private residential tenancy agreement. The Applicant is the heritable creditor of the Respondent’s landlord. The application called for a case management discussion (‘CMD’) at 2pm on 16 May 2023, by teleconference. The Applicant was represented on the call by Ms Stewart of Aberdeen Considine, solicitors. The Respondent was on the call in person.

- Findings in Fact

The relevant factual background to the case was not disputed, as follows:

1. The Respondent occupies the Property in terms of a private residential tenancy with a start date of 1 July 2019.
2. The Applicant is the heritable creditor of the Respondent's landlord.
3. The Applicant was granted a decree for repossession of the Property on 22 July 2019.
4. Notice to leave was served by the Applicant on the Respondent on 21 January 2021, indicating that it intended to rely on Ground 2 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 in seeking his eviction.
5. This application was raised on 19 January 2023.
6. The Respondent occupies the Property on his own, although his 7 year old daughter stays with him there every second weekend.
7. The Respondent is currently undertaking a job-related training course which will come to an end in August of this year.
8. The Respondent has contacted the local authority, who have informed him that they will not consider him at risk of homelessness unless there is an order for his eviction.
9. The Respondent has not been paying rent since being instructed by the landlord not to do so in early 2020.

- Reasons for Decision

10. The requirements of ground 2 have been made out. In particular, on balance, the Tribunal considered it was reasonable to grant an order to evict in the circumstances. While, on one view, the Respondent is effectively losing his tenancy as result of his landlord's failures; the very existence of ground 2 as a basis for eviction demonstrates that that fact alone is not sufficient to render eviction unreasonable.

11. Against that background, the Respondent has already benefitted considerably from the situation by living in the Property rent-free for around 3 years. It is not reasonable to extend that benefit indefinitely.

12. There is nothing in the Respondent's personal circumstances to suggest that he could not access acceptable accommodation via the local authority, if an order for his eviction is granted.

13. If eviction were to go ahead immediately, however, there is the possibility of some prejudice to his current training. For that reason, the Tribunal considered it was reasonable to stipulate that the order could not be effected any sooner than 1 September 2023, after these have been concluded.

- Decision

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.

16/05/2023

Legal Member/Chair

Date