



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/21/0145

Re: Property at 30 Millhall Court, Plains, Airdrie, ML6 7GE (“the Property”)

Parties:

Mr Douglas Reid t/a MDG Property, 74 Tay Street, Perth, PH2 8NP (“the Applicant”)

Mr Lee Robertson, Ms Ashleigh McRoberts, 30 Millhall Court, Plains, Airdrie, ML6 7GE (“the Respondents”)

Tribunal Members:

Maurice O’Carroll (Legal Member) and Melanie Booth (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Possession of the Property should be granted to the Applicant.

Background

1. An application for an Order for Eviction dated 20 January 2021 was lodged with the First-tier Tribunal by Colin Tomney Letting Agents on behalf of the Applicant. A Case Management Discussion (“CMD”) was conducted by means of a telephone conference on 20 April 2021 commencing at 10am.
2. Mr Colin Tomney appeared on behalf of the Applicant. The Respondents did not attend and were not represented. The Tribunal was satisfied that they had been validly served notice of the CMD by Sheriff Officer and were therefore aware of proceedings taking place.
3. The application was brought in terms of paragraph 5 of Part 1 to Schedule 3 of the 2016 Act. Ordinarily, that would be a compulsory ground for eviction. However, as a result of the Coronavirus (Scotland) Act 2020, that compulsory ground was

converted to a discretionary ground for consideration by the Tribunal. The Tribunal was therefore required to consider the merits of the application.

Proceedings at the CMD

4. The Tribunal noted that a Notice to Leave enclosed with a letter dated 8 October 2020 had been served on both Respondents by means of a single Recorded Delivery letter at the same time. As the Respondents are joint tenants and therefore have separate interests in the tenancy and have joint and several liability thereunder, the Tribunal considered that they ought each to have been provided with separate notification of the Notice to Leave.
5. However, this was not a matter raised by the Tribunal office during its assessment of the validity of the application. Mr Tomney also pointed out that guidance on the Scottish Government website indicated that in those circumstances a single notification would be sufficient. Accordingly, the Tribunal was satisfied that whilst separate notification would have represented best practice, it was not fatal to the application for eviction. The Respondents may, however, wish to obtain formal legal advice on this point on receipt of the present decision and appeal the decision to evict if so advised.
6. In support of the ground for eviction, the Tribunal was provided with a short letter dated 19 August 2020 by Miss Joanna Reid, daughter of the Applicant that she wished to take occupation of the Property. Initially, the Tribunal was not satisfied with the terms of the letter.
7. During an adjournment in proceedings, Mr Tomney contacted the Applicant who confirmed that his daughter had been furloughed from her employment in Livingston, but now required to attend work in Livingston on an intermittent basis, otherwise she was working from home. Mr Tomney also confirmed that Ms Reid has use of a private vehicle. As such the journey from the Property to Livingston would take approximately 20 minutes which is a more manageable commuting distance than the one hour it takes from Perth where she is presently living with her father.
8. On the basis of the further information provided during the course of the CMD, the Tribunal was satisfied that the ground for eviction had been made out and was therefore prepared to grant it as sought.

Findings in fact

9. The parties entered into a rental agreement dated 15 April 2019. The rent payable was £395 per calendar month, payable on the 15th of each month.
10. A valid Notice to Leave was issued to the Respondents on 8 October 2020. The notice period of 3 months expired on 11 January 2021 in terms of that notice.
11. Notice to the Local Authority was served in compliance with section 11 of the Homelessness Etc. (Scotland) Act 2003 on or about 2 February 2021.

12. The Applicants wish to insist on their right to gain possession of their property. The necessary ground for eviction has been made out by the Applicant and the appropriate period of notice for that ground has been given by the Applicant.

Decision

13. In light of the above findings in fact, the Tribunal granted the Order for Possession sought by the Applicant.

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.

M O'Carroll

20 April 2021

Legal Member/Chair

Date