

Housing and Property Chamber
First-tier Tribunal for Scotland



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/21/1551

Re: Property at 54 Corsebar Road, Paisley, PA2 9PS (“the Property”)

Parties:

Mr John Gilmour, Mrs Ann Marie Gilmour, 26 Todburn Drive, Paisley, PA2 7TD (“the Applicant”)

Miss Lynsey Hamilton, 54 Corsebar Road, Paisley, PA2 9PS (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondent.

Introduction

This Case Management Discussion concerned an Application for an Eviction Order in relation to a Private Residential Tenancy under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016. The hearing took place by teleconference due to the covid-19 pandemic.

1. Attendance and Representation

Kirsty Morrison, TC Young Solicitors, 7 West George Street, Glasgow, G21BA attended for the Applicants.

The Respondent was not present and had been served by Sheriff Officer. The Tribunal did not commence until 10.10am to try to allow the Respondent to attend.

2. Preliminary Matters

The Respondent not being in attendance the Tribunal enquired with the Applicant's representative on contact with the Respondent. She set out that the Applicants have had direct contact with the Respondent and it was their view she was aware of today's hearing. The Applicant's representative said that the contact surrounded payments to rent arrears for the property in connection with seeking alternative accommodation.

3. Case Management Discussion

The Applicant's representative submitted that the Applicant sought an Eviction Order under Ground 4 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016. She submitted further that the primary reason is that the Applicant's son died in their current home in Jan 2021 and they find it too difficult to reside in it as a result. It was further submitted that the current home has a very large garden which the Applicant's struggle to maintain without their son. The Applicant's representative set out that the property which the Applicant's seek to return to live in as their principle home was previously their home and has a smaller size and manageable garden.

The Applicant's representative told the Tribunal that the respondent lives with her partner and 5 boys at the property, is not working and the circumstances of her partner are not known. The Applicant's she said consider that the Respondent have advised the Local Authority of potential homelessness. .

4. Findings in Fact

1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent had received notification of the proceedings and had not challenged same by written representations or attendance.
2. The Tribunal was satisfied that the Applicants were the heritable proprietors of the Property.
3. The Tribunal was satisfied that the tenancy was a Private Residential Tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016 and dated 19th March 2019.
4. The Applicants were relying on Ground 4, under Schedule 3, of the 2016 Act only to make the Application.
5. A valid Notice to Leave had been served on the Respondents.
6. A valid Section 11 Notice had been served on the Local Authority.
7. The Notification of the Hearing had been served on the Respondent by Sheriff Officer.
8. The Tribunal had particular regard when balancing the interest of both parties to the Affidavits of the Applicant's setting out they sought to return to live in the property as their principal home following the death of their son at their current home in January 2021.

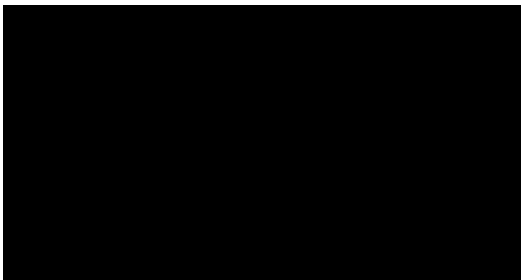
9. The Tribunal was told the Respondent lived with her partner and 5 sons and had made contact with the Local Authority seeking alternative accommodation.
10. The Tribunal was satisfied on the information before it that it was reasonable to grant the Order.
11. Accordingly in terms of Section 51 of the 2016 Act the Tribunal granted an Order against the Respondent for possession of the Property.

Reasons for the Decision

The Tribunal heard evidence from the Applicant's representative and had particular regard to the Affidavits lodged by the Applicant's which were detailed in their terms. The Tribunal determined it was appropriate to grant an Order for Eviction on the information before it.

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

24th August 2021

Date