



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/22/0413

Re: Property at 11 Rashiehill, Erskine, Renfrewshire, PA8 6ER (“the Property”)

Parties:

Mr Daniel Collinge, 55 Turnhill Drive, Erskine, Renfrewshire, PA8 7AY (“the Applicant”)

Mr Scott Wilson, 11 Rashiehill, Erskine, Renfrewshire, PA8 6ER (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Ms J Heppenstall (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted against the Respondent.

Background

1. This is an application received in the period from 14th February to 1st March 2022, made in terms of Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an eviction order under ground 14 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) in respect of the Property which is the subject of a Private Residential Tenancy agreement between the parties commencing on 1st September 2020.
2. The Applicant lodged a copy of the tenancy agreement, copy section 11 notice, notice to leave, copy correspondence to the Respondent and copy text messages to, and letters from, the local authority.
3. Intimation of the application and Case Management Discussion was made upon the Respondent by Sheriff Officers on 7th April 2022.

4. By email dated 12th May 2022, the Applicant informed the Tribunal that the Respondent had left the Property the previous week.

Case Management Discussion

5. A Case Management Discussion (“CMD”) took place by telephone conference on 24th May 2022. The Applicant was in attendance. The Respondent was not in attendance.
6. The Tribunal considered the terms of Rule 29. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the CMD and that the requirements of Rule 17(2) had been satisfied and it was appropriate to proceed with the application in the absence of the Respondent.
7. The Applicant confirmed that he had been informed by the local authority’s Communities Department that the Respondent had left the Property, and that he had returned under police escort to collect his belongings.
8. The Applicant said he let the Property initially to the Respondent and his wife in 2018. The couple separated and a new tenancy agreement was put in place with the Respondent on 1st September 2020.
9. In September 2021, the Applicant received an anonymous letter at his home address stating that the Respondent was suspected of drug dealing and that he was causing noise at the Property. The Applicant gave the Respondent a verbal warning at that time.
10. The Applicant was informed that the Respondent was arrested on 28th November 2021 after shouting in the street. The Police had to break the glass in the back door to get into the Property, and the Respondent broke windows in the Property trying to escape.
11. By letter dated 1st December 2021, the Applicant issued a final written warning to the Respondent mentioning the broken windows, and complaints raised by the local authority’s Housing and Communities Department, including complaints of discarded rubbish and anti-social behaviour. There was also unpaid rent at that time.
12. On 20th December 2021, there was a complaint of loud music from the Property and the police attended.
13. On 28th December 2021, the Respondent’s son was arrested for threatening behaviour and fighting in the street.
14. On 6th January 2022, the Respondent broke the front door window.
15. On 20th February 2022, there was a domestic incident at the Property and the Respondent was arrested.

16. On 20th March 2022, the kitchen window was broken by the Respondent.
17. The Applicant said he was aware that a neighbour had sold their property because of the anti-social behaviour. The neighbour had believed there was drug dealing going on at the Property, with cars attending day and night, and fighting in the street. The Respondent previously told the Applicant that he had a lot of bother at the Property and that his son was having problems there.
18. Responding to questions from the Tribunal regarding the Notice to Leave, a page of which was not legible, the Applicant said he gave the Respondent 28 days' notice as required by law, having discussed this with the local authority and the Scottish Association of Landlords, and served it by hand on 10th January 2022. The Applicant referred to messages dated 10th January 2022 and sent to the local authority whereby he stated that he had served the notice by hand that day. Asked why he had served it by hand when the lease provides at clause 4 for service by email address only, the Applicant said the Respondent was in the habit of losing his phone and changing his phone number. He only had access to email through his phone, and he had failed to answer email messages in the past. He could not have any confidence that the Respondent would get the notice if served by email. Recent contact between the parties had been carried out by using the Respondent's partner's phone.
19. Addressing reasonableness, the Applicant said the Respondent's son is not staying in the Property. He was arrested in March 2022 and is in emergency accommodation with bail conditions not to approach the Respondent. The Applicant said he was required by the local authority to take action to avoid risking his landlord registration status.

Findings in Fact and Law

- 20.
- (i) The parties entered into a private residential tenancy agreement in respect of the Property commencing on 1st September 2020.
 - (ii) Notice to Leave has been served upon the Respondent.
 - (iii) The Respondent has engaged in relevant anti-social behaviour towards neighbours and other persons.
 - (iv) The application is made within 12 months of the relevant anti-social behaviour.
 - (v) It is reasonable to grant an eviction order.

Reasons for Decision

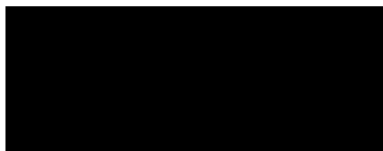
21. The Tribunal was satisfied that the requisite Notice to Leave had been served correctly upon the Respondent.
22. The Tribunal was satisfied that ground 14 was met, and that the Respondent has engaged in relevant anti-social behaviour towards neighbours and other persons by shouting, playing loud music and fighting in the street, and by breaking windows in the Property. This behaviour caused and was likely to cause neighbours and other persons alarm, distress, nuisance and annoyance.
23. The Tribunal considered it reasonable to grant the eviction order as a consequence of the anti-social behaviour, given its nature and its effect upon neighbours and other persons.
24. In considering reasonableness, the Tribunal also took into account the fact that the Respondent has left the Property of his own volition. The Respondent did not attend the CMD to put forward any arguments as to the reasonableness of granting the order. In all the circumstances, the Tribunal considered it was reasonable to grant the order.

Decision

25. An eviction order in respect of the Property is granted against the Respondent.

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 May 2022
Date