

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 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/20/2592

Re: Property at Flat 69B, Junction Road, Kirkwall, Orkney KW15 1AX (“the Property”)

Parties:

**Mr Robert Farrer, Valhalla, Norseman Village, Firth, Orkney, KW17 2NY (“the Applicant”), and
and**

Miss India Sinclair and Mr Reece Mackay, both residing at Flat 69B, Junction Road, Kirkwall, Orkney KW15 1AX (“the Respondents”)

Tribunal Members:

G McWilliams- Legal Member

A Khan- Ordinary Member

Decision in absence of the Respondents

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

Background

1. This Application, contained in papers lodged with the Tribunal between 16th December 2020 and 8th January 2021, was brought in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).
2. The Applicant had provided the Tribunal, in the Application, with copies of the parties’ Private Residential Tenancy Agreement (“the PRT”), the Notice to

Leave served on the Respondents and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice intimated to Orkney Islands Council. All of these documents and forms had been correctly and validly prepared in terms of the provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied. The Applicant also provided a letter from his solicitors, Lows, 5 Broad Street, Kirkwall, Orkney, dated 30th November 2020, confirming that they have instructions from the Applicant to sell the Property as soon as the Respondents have ceased occupation there.

3. The Respondents had been validly served by Sheriff Officers with the Notification, Application papers and Guidance Notes from the Tribunal on 29th January 2021, and the Certificates of Intimation were produced.

Case Management Discussion

4. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call at 10am today, 2nd March 2021. The Applicant attended. The Respondents did not attend and were not represented. The Applicant stated that he wished to sell the Property through his solicitor. He stated that he had last spoken to the Respondents around one month ago when they said that they would not attend today’s CMD and that they awaited an eviction order to present to Orkney Islands Council in order to seek alternative accommodation. The Applicant submitted that as the Respondents had been effectively served with all papers in respect of the Application for an eviction order, and had not lodged any representations with the Tribunal, nor attended at the CMD, the eviction order should be granted.

Statement of Reasons

5. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) the Tribunal is to issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
6. Schedule 3, Paragraph 1(1) of the 2016 Act provides that it is an eviction ground that a landlord intends to sell the let property.
7. The Respondents had not lodged representations with the Tribunal or attended the CMD to provide any evidence, and/or make any submissions, opposing the order sought. Having considered the Application, the PRT and the said letter from Lows Solicitors, as well as the oral submission of the Applicant today, the Tribunal was satisfied that the Applicant intends to sell the Property and determined that it was reasonable that an eviction order be granted.

Decision

8. The Tribunal therefore made an eviction order as sought in this Application.

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.

G McWilliams

Legal Member

2nd March 2021

Date