



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

Reference number: FTS/HPC/EV/21/2880

Property: 118B Hilltown, Dundee, DD3 7BG

Parties:

Positive Steps Partnership, Upper East Wing, Swan House, 2 Explorer Road, Technology Park, Dundee, DD2 1DX (“the Applicant”)

Wendy Graham, 118B Hilltown, Dundee, DD3 7BG (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)
Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 14 of schedule 3 to the 2016 Act.

Background

The Applicant sought recovery of possession of the Property in terms of Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 (“the Act”). The documents produced included a Tenancy agreement dated 25 November 2019, a notice to leave dated 19 October 2021, & a Notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

Case Management Discussion

A case management discussion took place before the Tribunal at 2.00pm on 15 March 2022 by telephone conference. The Applicant was represented by Ms J Reid. The respondent was neither present nor represented. The time, date, and place of the case management discussion had been intimated to the respondent by Sheriff Officers.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property dated 25 November 2019. The applicant provides supported accommodation to vulnerable tenants and works with a range of property owners. One of the conditions of the tenancy agreement entered into between the parties is that the respondent must engage with the support offered by the applicant.
2. The respondent is a vulnerable adult who struggles with drug misuse. Soon after moving into the property, the respondent disengaged from support services offered by the applicant. The respondent has been hostile to the applicant's staff and aggressive and abusive to her neighbours.
3. For the last year, the respondent appears to have been concerned in the supply of drugs, using the property as a base from which to deal. The respondent's activities have led to a steady stream of drug misusers visiting the property and disturbing her neighbours. The respondent's activities have led to regular (and disruptive) police visits. The property has been damaged by the respondent and/or her visitors, and the neighbours are in fear of the respondent and her visitors.
4. The property has fallen into disrepair and the respondent has been living in squalid conditions because the respondent has neglected the property. The applicants last gained access to the property in the summer of 2021, but the property owner gained access in December 2021 for the purposes of carrying out a gas safety check and confirms the state of the property at that time. Moveable contents of the property provided by the applicant have been either damaged or removed from the property. The interior and exterior of the property are littered with debris and rubbish abandoned by the respondent. The debris and rubbish surrounding the property have caused environmental hazards and detract from the amenity of the larger building of which the property forms part. The debris and rubbish (and consequent environmental damage) detracts from the respondent's neighbours' peaceful enjoyment of their properties.
5. The respondent has pursued a pattern of antisocial behaviour which has disturbed her neighbours for the last 12 months. The respondent refuses to accept guidance and support from the applicant, and tells the applicant that she does not need guidance and support and no longer wants to live in the property. It is questionable whether she is currently living at the property, but this cannot be confirmed. The respondent has at times been aggressive and hostile to her neighbours and the applicant's staff.
6. On 19 October 2021 the applicant served a notice to leave on the respondent. On 19 November 2021 the applicant submitted this application to the tribunal.

7. The Applicant seeks recovery of possession of the Property in terms Ground 14 of schedule 3 to the 2016 Act. The respondent has behaved in an anti-social manner which affects both her neighbours and the applicant's staff. The respondent's anti-social behaviour is relevant anti-social behaviour, and the application for an eviction order that is before the Tribunal was made within 12 months of the anti-social behaviour occurring.

8. The respondent offers no resistance to this application. Sheriff Officers served notice of this hearing on the respondent.

9. The respondent is a single adult. As far as the landlord is aware, when she occupies the property she lives alone in the tenancy. Various attempts have been made by the applicant's representatives to engage with the respondent in respect of pre-action requirements, but the respondent is not interested in engaging with the applicant. The respondent has resisted all attempts at communication on behalf of the landlord.

10. It is not argued that it is unreasonable to grant an order for repossession of the property. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in in terms Ground 14 of schedule 3 to the 2016 Act are established. The respondent offers no defence to the application. For these reasons, the Tribunal determined to grant an Order for possession.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 14 of schedule 3 to the 2016 Act.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding

the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Paul Doyle

15 March 2022

Legal Member