



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/22/3195

Property : 7 McCourt Gardens, Bellshill ML4 1QB (“Property”)

Parties:

Gerard McKeown, 9 Kent Road, Bellshill ML4 3PN (“Applicant”)

Alison McFarlane and Steven McFarlane, 7 McCourt Gardens, Bellshill ML4 1QB (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined not to make an order for possession of the Property and dismissed the application.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Tenancy Agreement; Notice to Leave dated 7 February 2022; email from the Applicant in which he stated that the Notice to Leave was hand delivered attaching screenshot of text messages from “Alison Flat” which said that the Notice to Leave was hand delivered; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003; signed statement from the Applicant dated 24 October 2022 in which he stated his intention to sell the Property due to a change in circumstances and sheriff officer's execution of service certifying service of the Application on 21 February 2023. The Tribunal had sight of a search showing that the Applicant holds title to the Property.

Case Management Discussion (“CMD”)

A CMD took place before the Tribunal on 28 March 2023 by teleconference. On the morning of the CMD the Tribunal were sent a copy of an email from the Applicant dated 23 March 2023 in which the Applicant said that the Respondent had left the

Property and he asked to halt the proceedings. Neither the Applicant or the Respondent attended the CMD.

Reasons for the Decision

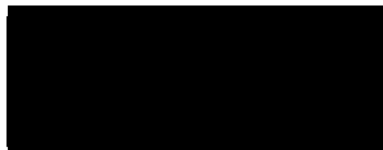
As the Respondent had vacated the Property, there was no need for further procedure in the application. In the circumstances the Tribunal determined to dismiss the application.

Decision

The Tribunal determined not to grant an order for possession of the Property and dismissed the 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.



**Joan Devine
Legal Member**

Date: 28 March 2023