



**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/19/3934

Re: Property at 19F Hughenden Gardens, Glasgow, G12 9XZ (“the Property”)

Parties:

**Mr Robert Ross, Ms Victoria Cookson, c/o Tay Letting Limited, 8 Eagle Street,
Craighall Business Park, Glasgow, G4 9XA (“the Applicant”)**

**Mr Paul Thomas Dougan, 16 Greenland Parade, Larne, County Antrim, BT40
2BJ (“the Respondent”)**

Tribunal Members:

George Clark (Legal Member) and Leslie Forrest (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be dismissed.**

Background

1. By application, received by the Tribunal on 12 December 2019, the Applicant sought an Eviction Order against the Respondent in respect of unpaid rent in respect of the Property. The Grounds relied on were Grounds 10 and 11 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2014 (“the Act”).
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 12 April 2019 at a rent of £1,225 per month, and a Notice to Leave sent by email on 28 October 2019 and stating that an application for an Eviction Order would not be made before 27 November 2019. The Notice to Leave was based on Grounds 10 and 11 of Schedule 3 to the Act, namely that the Respondent was no longer occupying the Property (Ground 10) and that his failure to advise the Applicant that the Property would be vacant for a period of more than 14 days constituted a breach of Clause 16 of the Tenancy Agreement.

3. On 6 January 2020, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 27 January 2020, a date that was subsequently extended by the Tribunal at the request of the Respondent.
4. On 29 January 2020, the Respondent made written representations to the Tribunal in which he confirmed that he had left the Property on 1 October 2019 and that, due to an oversight, he had failed to make the October rent payment. He had been out of the country for October and most of November and had not picked up communications from the Applicant's agents until 21 November. On 27 November 2019, he had stated to them his intention to leave the Property as soon as possible and had suggested the letting agents liaise with a colleague of his, to resolve the matter of clearing the Property of the Respondent's belongings and effects. He had also told the Applicant's letting agents that he was happy to release the deposit of £1,837.50. The Respondent repeated in his written representations that he was prepared to agree to voluntarily surrender possession of the Property and to have his possessions removed.
5. Following a Case Management Discussion on 6 February 2020 (at which the Respondent was not present or represented, after having earlier requested to participate by telephone conference call), the Tribunal adjourned consideration of the application to a full Hearing. The Tribunal noted the terms of an email from the Respondent to the Applicant's letting agents dated 4 November 2011, in which he admitted he had left the Property on 1 October and had not returned.
6. The email of 4 November suggested that the letting agents should liaise with a colleague of the Respondent to clear the flat. The Applicant's solicitor told the Tribunal that the letting agents had contacted the named colleague and had made arrangements to meet him at the Property, but he had not turned up and neither he nor they had been in contact since. The Tribunal stated in its Decision that this was a matter which was to be clarified at the Hearing.
7. There was a further issue raised by the Tribunal in relation to whether the Notice to Leave had been correctly served on the Respondent. This was to be explored further at the Hearing.
8. The Hearing scheduled for 24 April 2020 was postponed due to the COVID-19 outbreak and lockdown restrictions.

The Hearing

9. A Hearing was held by way of a telephone conference call on the morning of 13 August 2020. The Applicant was represented at the Hearing by Mr Andrew Hunter of Harper Macleod LLP solicitors, Glasgow. The Respondent participated in the telephone conference call.
10. On the day prior to the Hearing, the Applicant's solicitors had sent an email to the Tribunal in which they stated that the Respondent had voluntarily left the Property and removed his belongings from it as at 19 March 2020. Mr Hunter asked the Tribunal to dismiss the application.

Reasons for Decision

11. The Tribunal was satisfied that there was no need for the Hearing to go ahead, as the Respondent had voluntarily vacated the Property. Accordingly, the

Applicant's solicitor's request that the application be dismissed was granted by the Tribunal.

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.

George Clark

Legal Member/Chair

13 August 2020
Date