



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 (Act)

Chamber Ref: FTS/HPC/EV/20/1948

Re: Property at 7 Wards Drive, Muir of Ord, IV6 7PX (“the Property”)

Parties:

Mr Lewis Cameron, Mrs Joanna Cameron, 6 Braigue Road, Branahue, Isle of Lewis, HS2 0BQ (“the Applicant”)

Ms Gail Turnbull, 7 Wards Drive, Muir of Ord, IV6 7PX (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted.

Background

This is an application under Rule 109 and section 51(1) of the Act in respect of the Applicants’ intention to live in the Property and for eviction and recovery of possession on Ground 4 of Schedule 3 to the Act.

The Tribunal had regard to the following documents:

1. Application received 13 September 2020;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 12 April 2018;
3. Notice to Leave dated and served 26 May 2020;
4. Sheriff Officer Certificate of Service of Notice to Leave dated 26 May 2020;
5. Section 11 Notice to Local Authority;
6. Confirmation of receipt from Local Authority of Section 11 Notice;
7. Affidavits of Applicants;

8. Sheriff Officer Certificate of Service of Tribunal CMD Notification on Respondent dated 8 October 2020.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 11 November 2020. The Applicants participated and were represented by their letting agent. The Respondent did not participate and was not represented.

The Tribunal delayed the start of the CMD to see if the Respondent would participate. The Respondent did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that she should attend and the Tribunal could determine the matter in absence if she did not.

The Tribunal had regard to Ground 4 of Schedule 3 to the Act which provides:

Landlord intends to live in property

4(1) It is an eviction ground that the landlord intends to live in the let property.

(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months.

a) the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months and

(b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.

(3) References to the landlord in this paragraph—

(a) in a case where two or more persons jointly are the landlord under a tenancy, are to be read as referring to any one of them,

(b) in a case where the landlord holds the landlord's interest as a trustee under a trust, are to be read as referring to a person who is a beneficiary under the trust.

(4) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2) includes (for example) an affidavit stating that the landlord has that intention.

The Tribunal then considered the documentary evidence it had received from the Applicants and in so far as material made the following findings in fact:

1. The Parties let the subjects under a PRTA commencing 12 April 2018;
2. The Applicants are the owners of the Property and intend to live in it;
3. Notice to Leave had been served on the Respondent on 26 May 2020;

4. The Applicants intends to live in the Property as their only or main home for a period of at least 3 months;
5. Section 11 notification had been served on the local authority;
6. It is reasonable to make the eviction order on account of that fact.

The Tribunal was satisfied that Ground 4 had been established and accordingly granted the application for eviction and recovery of possession.

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.

A.S

11 November 2020

Legal Member/Chair

Date