



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 2106

Chamber Ref: FTS/HPC/EV/22/3011

Re: Property at Flat 9, 1 Portland Gardens, Edinburgh, EH6 6NA (“the Property”)

Parties:

Mr Alastair Anderson and Ms Rebecca Brannan, 13/9 Simpson Loan, Edinburgh, EH3 9GN (“the Applicants”)

Ms Barbara Stasi, Flat 9, 1 Portland Gardens, Edinburgh, EH6 6NA (“the Respondent”)

Tribunal Members:

Gillian Buchanan (Legal Member) and David Fotheringham (Ordinary Member)

Decision (in absence of the Respondent)

At the Case Management Discussion (“CMD”), which took place by telephone conference on 11 January 2023, the Applicants were represented by Mr David Lamont of Rettie & Co Ltd. The Respondent was neither present nor represented and had lodged no written representations.

The CMD was in respect of this matter and the related case bearing reference FTS/HPC/CV/22/2368.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

Prior to the CMD the Tribunal had received emails with enclosures from Mr Lamont dated 15 December 2022 and 9 January 2023.

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

Background

The Tribunal noted the following background:-

- i. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 11 September 2019.
- ii. The rent payable in terms of the PRT is £1,000 per month.
- iii. On 27 May 2022, the Applicants' agent served on the Respondent by email a Notice to Leave requiring the Respondent remove from the Property by 22 August 2022 on the basis that the Applicants' son intended to occupy the Property as his only or principal home.
- iv. That the Applicants' agent has served on City of Edinburgh Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.

The CMD

At the CMD Ms Lamont for the Applicants made the following representations in respect of this application and the associated application FTS/HPC/CV/22/2368:-

- i. The rent arrears balance as at the CMD is £2,600.
- ii. The deposit previously paid by the Respondent in terms of the PRT remains held.
- iii. The Respondent continues to live in the Property. Her email to Mr Lamont dated 10 January 2023 indicated that she had not been able to find any alternative accommodation and enquiries relative to links to other available accommodation sent by Mr Lamont had not been successful.
- iv. The Applicants are no longer living in London, their tenancy of a residential property there being due to end on 14 February 2023. The Applicants have moved to their other two bedroomed property in Edinburgh where they are living with their son. That property is not suitable for three adults to comfortably live. Their belongings are all stored there too.
- v. The Applicants require possession of the Property for their son to move into.
- vi. The Applicants seek an eviction order.

Findings in Fact

- i. The Applicants leased the Property to the Respondent in terms of the PRT.
- ii. The rent payable in terms of the PRT is £1,000 per month.
- iii. On 27 May 2022, the Applicants' agent served on the Respondent by email a Notice to Leave requiring the Respondent to remove from the Property by 22 August 2022 on the basis that the Applicants' son intended to occupy the Property as his only or principal home.
- iv. That the Applicants' agent has served on City of Edinburgh Council a Notice under Section 11 of the Homelessness etc (Scotland) Act 2003.
- v. The rent arrears balance as at the CMD is £2,600.
- vi. The deposit previously paid by the Respondent in terms of the PRT remains held.
- vii. The Respondent continues to live in the Property.
- viii. The Applicants are no longer living in London, their tenancy of a residential property there being due to end on 14 February 2023.
- ix. The Applicants have moved to their other two bedroomed property in Edinburgh where they are living with their son. That property is not suitable for three adults to comfortably live. Their belongings are all stored there too.
- x. The Applicants require possession of the Property for their son to move into.
- xi. The Applicants seek an eviction order.
- xii. It is reasonable that an eviction order be granted.

Reasons for Decision

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicants within the application papers and orally on their behalf at the CMD was not challenged and was accepted by the Tribunal.

The Tribunal considered whether or not it would be reasonable to grant an eviction order and determined that it is reasonable to grant an eviction order under Ground 5 of Schedule 3 of the 2016 Act.

Decision

The Tribunal grants an order for the Respondent's eviction from the Property.

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.

Legal Member/Chair

11 January 2023
Date