

Housing and Property Chamber
First-tier Tribunal for Scotland



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/18/2369

Re: Property at 159 Millgate Loan, Arbroath, DD11 1QQ (“the Property”)

Parties:

Mrs Morag Maxwell, c/o Wardhaugh Property, 38-40 East High Street, Forfar, DD8 2EG (“the Applicant”)

Miss Kristen Herald, 159 Millgate Loan, Arbroath, DD11 1QQ (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member)

Decision (in absence of the Respondent)

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

This is an Application for an eviction order in respect of the Property in terms of Section 51 and Schedule 3 Ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016.

Discussion

The Respondent did not attend the Case Management Discussion on 9th November 2018 but had been served with the Application and supporting papers and notified of the date of the Case Management Discussion. The Applicant was represented by Miss Caldwell of TC Young Solicitors. She moved the Tribunal to proceed in the absence of the Respondent who had been advised of the date and the Tribunal was prepared to proceed in the absence of the Respondent.

The Tribunal had sight of the Application, a copy of the Tenancy agreement between the parties, a Notice to Leave, a Notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 and a letter dated 14th June 2018 to the

Applicant and her husband confirming instructions to market the property for sale.

Findings In Fact

1.The Applicant and Respondent entered into a Tenancy agreement dated 1st March 2018 in terms of the Private Housing (Tenancies) (Scotland Act) 2016 in respect of the Property.

2. On 18th July 2018 the Applicant served on the Respondent a Notice to Leave in terms of the 2016 Act under Ground 1 of Schedule 3 as the Applicant indicated an intention to sell the property.

3.The Notice to Leave was served by email, the communication method specified within the tenancy agreement and gave the Respondent appropriate notice of the requirement to leave in terms of the Act as she has been a tenant for less than 6 months.

4.The Notice to Leave is in force as at the date of the application in this case.

4. A Notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 was appropriately served on the local authority.

5.The Applicant has instructed a property company to market the property for sale and this instruction is confirmed by letter of 14 June 2018 from the company concerned.

6.The Tribunal is satisfied on the evidence before it that the Applicant is entitled to sell the property and intends to put the property up for sale within three months of the Respondent ceasing to occupy it.

7.The Tribunal makes an Eviction Order under s51 of the 2016 Act under Ground 1 of Schedule 3 of the Act.

Reasons For Decision

The Applicant has complied with the lawful requirement to serve a Notice to Leave on the Respondent and the Tribunal finds on the evidence before it that an eviction ground under the 2016 Act applies in that the Applicant intends to sell the let property.

Decision

The Tribunal makes an Eviction Order in respect of the Respondent's occupancy of the Property in terms of section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 Schedule 3 Ground 1.

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.

Valerie Bremner

Legal Member/Chair

9 November 2018.

Date