



**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.**

Chamber Ref: FTS/HPC/EV/21/2737

Re: Property at 35 Gordon Avenue, Inverurie, AB51 4GQ (“the Property”)

Parties:

Mr Steven Morrice, 22 Simpson Avenue, Rothienorman, AB51 8WY (“the Applicant”)

Mr Jordan Ivancic, 35 Gordon Avenue, Inverurie, AB51 4GQ (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order.

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application for an Eviction Order under 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made.

Attendance and Representation

The Applicant was represented by Martin Kingdom, Peterkins, 100 Union street, Aberdeen, AB51 4GQ.

The Respondent did not attend the Tribunal or provide written representations

Preliminary Matters

There were no preliminary matters other than the fact that the Respondent was not present. Mr Kingdom advised the last contact he had with the Respondent was in November 2020 when the Respondent was in touch to rearrange a property visit. This visit took place on the 1st December 2021. Mr Kingdom said the Respondent remains in the property. Service was affected by Sheriff Officer on 9th December 2021. Sheriff Officers found the Respondent within the flat.

Case Management Discussion Summary

Mr Kingdom confirmed that the Applicant sought an Order for Eviction in terms of Section 51 of the Act and under Grounds 13 and 15 of Schedule 5. Mr Kingdom said the Applicant seeks an order on the basis of a relevant conviction. He relied on an Extract Conviction Report from Aberdeen Sheriff Court dated 12th October 2021. Said Extract specified that the Respondent was convicted under two charges under the Misuse of Drugs Act, Section 4(3)(B). The Applicant had also lodged extracts of a newspaper article relating to the convictions dated 30th September 2021 providing details from the Court Hearing that quantities of illegal drugs and items in connection with the supply of drugs were found in the property of the Respondent's partner. Mr Kingdom advised the Tribunal he had also been contacted by a social worker requesting permission for tagging to be conducted in the property which was refused. However the tagging had thereafter occurred and the Respondent remains in the property.

Mr Kingdom told the Tribunal that the Applicant was seeking an Order as there continues to be complaints believed to be connected to drug use from neighbours in the locality, the most recent complaint was last week he said. Although not relevant Mr Kingdom explained the Respondent is in rent arrears to an amount of £2250. Mr Kingdom said the Respondent to his knowledge resides alone. Mr Kingdom explained the problems relating to complaints and activity connected to the property by neighbours and those in the vicinity of same.

Reasons for Decision/Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent had received notification of the proceedings and had not challenged same by written representations or attendance.**
- 2. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property.**
- 3. The Tribunal was satisfied that the tenancy was a Private Residential Tenancy in terms of the Private Housing (Tenancies)(Scotland) Act 2016.**

4. In terms of Ground 13, Schedule 3, Part 3 of the Private Housing (Tenancies)(Scotland) Act 2016 the Tribunal found that the Tenant received a relevant conviction at Aberdeen Sheriff Court on 10th August 2021. Said Extract of conviction was produced dated 12th October 2021.
5. The Tribunal was satisfied given the extract conviction stated that the Respondent was convicted in terms of 2 charges in terms of Section 4(3)(B) of the Misuse of Drugs Act 1971 and that the convictions related to the supply of drugs to another or others.
6. The Applicant's representative gave credible and reliable evidence of continuing complaints relating to the Respondent and visitors to his home seeking drugs, the most recent of which the Tribunal was advised was reported by the landlord on the 14th January 2022.
7. In terms of Ground 15, Schedule 3, Part 3 of the Private Housing (Tenancies)(Scotland) Act 2016 the Tribunal found that the Tenant has associated in the property with a person who has received a relevant conviction at Aberdeen Sheriff Court on 10th August 2021. A newspaper article was produced dated 30th September 2021 providing details from the Court Hearing concerning the Respondent and his partner that quantities of illegal drugs and items in connection with the supply of drugs were found in that property. Said news article quoted the Respondent's solicitor as stating the Respondent was the principle actor in relation to the supply of cocaine in addition to the supply of cannabis.
8. The Tribunal on a balance of probabilities and in the absence of representations to the contrary considered the extract conviction, the oral evidence from the Letting Agent and the detailed Newspaper article from the Court hearing was sufficient.
9. The Tribunal considered further that grant of the Order was reasonable, the Respondent resided alone with no dependents or health vulnerabilities noted.
10. The Tribunal was in receipt of a valid Notice to Leave and proof of service together with a Section 11 Notice in terms of the Homelessness etc (Scotland) Act 2003 and proof of service.

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.

Karen Kirk

Legal Member/Chair

17 January 2022
Date