



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 (“The Act”)

Chamber Ref: FTS/HPC/EV/23/3744

Re: Property at Flat 4, 105A High Street, Lochee, Dundee, DD2 3BX (“the Property”)

Parties:

Ms Rebecca Robbins -as Executor for the late JDP Robbins, 23 Beech Avenue, Bearsden, G61 3EU (“the Applicant”)

Mrs Jody McMillan, Flat 4, 105A High Street, Lochee, Dundee, DD2 3BX (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

[2] The Applicant seeks an Eviction Order under Ground 1 of Schedule 3 of the Act in her capacity as Executor of her late father who owned the Property. The Application is accompanied by a copy of the original tenancy agreement, the notice to leave relied on with proof of service, the relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003 and evidence of the death of the Applicant’s father and the appointment of the Applicant as his Executor.

The Case Management Discussion

[3] The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 14 March 2024. The Applicant was personally present. There was no appearance by or on behalf of the Respondent. On the basis that service of the Application had been competently effected by Sheriff Officers, the Tribunal decided to proceed in the absence of the Respondent. Having heard from the Applicant, the Tribunal made the following findings in fact.

Findings in Fact

- I. *On the death of her father, the Applicant acquired the landlord's interest in a tenancy which let the Property to the Respondent;*
- II. *The Applicant now wishes to sell the Property as part of the management of her late father's estate;*
- III. *The Applicant competently served a notice to leave under ground 1 of Schedule 3 of the Act. The Applicant has complied with Section 11 of the Homelessness (etc) (Scotland) Act 2003;*
- IV. *The Respondent is thought to wish to vacate the Property where she lives with a partner and two young children. She has frequently asked the Applicant to provide her with a notice to leave so she can obtain state support to move house;*
- V. *The Respondent has not engaged with the Tribunal process.*

Reasons for Decision

[4] Having made the above findings in fact, the Tribunal found the ground relied upon in the Application to be established. The Tribunal also concluded that it was reasonable to make an Eviction Order.

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.

Andrew McLaughlin

Legal Member/Chair

14 March 2024
Date