



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: Reference number: FTS/HPC/EV/22/3880

Order granted on 16 February 2023 in the respondent's absence

Property: 97a Stewart Avenue, Bo'ness, EH51 9NJ

Parties:

Megan and Gary Couper, residing at 4 The Vennel, Linlithgow, West Lothian, EH49 7EX ("the Applicants")

Connor Scott Hamilton residing at 97a Stewart Avenue, Bo'ness, EH51 9NJ ("the Respondent")

Tribunal Members:

Paul Doyle (Legal Member)
Melanie Booth (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 11 of schedule 3 to the 2016 Act.

Background

1. The Applicants seek recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicants lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to Leave served on 14 June 2022, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicants are the heritable proprietor of the Property.

Case Management Discussion

2. A case management discussion took place by telephone conference at 10.00am on 16 February 2023. The Applicants were represented by Ms L McLaughlan, of Paul Rolfe Letting. The respondent was neither present nor represented. The time date and place of the case management discussion had been properly intimated to the respondent.

Findings in Fact

3. The Tribunal made the following findings in fact at the Case Management Hearing.

(i) On 31 July 2020 the applicants and respondent entered into a private residential tenancy agreement for the property.

(ii) Clause 20 of the tenancy agreement obliges the respondent to allow access to the property for repairs, inspections, and valuations.

(ii) Clause 21 of the tenancy agreement obliges the respondent to respect this neighbours and to avoid anti-social behaviour. Clause 21 also prohibits the respondent from damaging the property and allowing refuse to accumulate.

(iii) Clause 32 of the tenancy agreement obliges the respondent to dispose of and recycle rubbish, and to place properly bagged or recycled rubbish out for weekly collection by the local authority.

(iv) The respondent has damaged the property and allowed refuse and waste products to accumulate within the property. The property became so cluttered with rotting waste that it was impossible to carry out a gas safety check. The property has become infested with vermin.

(v) The respondent stopped paying rent in October 2022 and has damaged the furniture and furnishing provided by the landlord. The property has become a health risk and must be emptied of waste and thoroughly cleaned before repairs and redecoration can commence.

(vi) Despite regular approaches from the applicants' agent, the Respondent has refused to allow the applicants, their tradesmen, and their agents access to the property.

(vii) It is believed that the respondent vacated the property, without surrendering possession to the applicants, in October 2022. It is believed he now lives and works in Inverness.

(viii) On 14 June 2022 the applicants served a notice to leave on the respondents in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 21 October 2022, the applicants submitted an application to the tribunal.

(ix) The Applicants seek recovery of possession of the Property in terms Ground 11 of schedule 3 to the 2016 Act.

(x) The respondent offered no resistance to this application.

(xi) There is nothing to suggest that it is unreasonable to grant an order for repossession of the property. The respondent is single and has no dependents. He is employed and is no longer living in the property. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in in terms Ground 11 of schedule 3 to the 2016 Act is established. The respondent offers no defence to the application. For these reasons, the Tribunal determined to grant an Order for possession.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 11 of part 3 of schedule 3 to the 2016 Act.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.



Legal Member

16 February 2023