



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/21/0821

Re: Property at 31 Whitehaugh Drive, Paisley, PA1 3PG (“the Property”)

Parties:

Mr Graham Boyle, Golden Mile Building 8, Apartment 307, Palm Jumeirah, DUBAI, United Arab Emirates (“the Applicant”)

Mr Gary Fogg, 31 Whitehaugh Drive, Paisley, PA1 3PG (“the Respondent”)

Tribunal Members:

Andrew Upton (Legal Member) and David Fotheringham (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Private Residential Tenancy terminated on 26 May 2021 and an eviction order should be granted.

STATEMENT OF REASONS

1. This Application called for its Case Management Discussion on 26 May 2021 by teleconference call. The Applicant was present on the call, and also represented by Mr Stevenson, solicitor. The Respondent was neither present nor represented.
2. In this Application, the Applicant seeks an eviction order against the Respondent. The Property is let by the Applicant to the Respondent under a Private Residential Tenancy which commenced on 7 June 2019. By notice dated 16 December 2020, the Applicant gave notice to leave to the Respondent. He stated that it was his intention to live in the Property. In support of his Application, the Applicant has provided an affidavit explaining that he was until recently employed in Dubai. He had let the Property whilst he was working abroad. He has been made redundant due to the coronavirus

pandemic. He now requires to return to Scotland. He cannot afford to remain in Dubai. The Property is also close to his elderly parents and they are beginning to require additional support which he would be able to provide. For all of those reasons, he intends to live in the Property. The Applicant also provided a copy of the cancellation of his residency in Dubai.

3. In terms of the Private Housing (Tenancies) (Scotland) Act 2016:-

“51 First-tier Tribunal's power to issue an eviction order

- (1) The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.
- (2) The provisions of schedule 3 stating the circumstances in which the Tribunal may find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.
- (3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.
- (4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.

Sch.3, Paragraph 4 Landlord intends to live in property

- (1) It is an eviction ground that the landlord intends to live in the let property.
- (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—
 - (a) the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months, and
 - (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.
- (3) References to the landlord in this paragraph—
 - (a) in a case where two or more persons jointly are the landlord under a tenancy, are to be read as referring to any one of them,
 - (b) in a case where the landlord holds the landlord's interest as a trustee under a trust, are to be read as referring to a person who is a beneficiary under the trust.
- (4) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2) includes (for example) an affidavit stating that the landlord has that intention.”

4. The Respondent has been afforded an opportunity to attend the CMD in order to dispute the Application and the assertions made by the Applicant in it. He has chosen not to do so. The Tribunal is therefore satisfied that the Respondent does not dispute that the Applicant intends to live in the Property, or that it is reasonable to grant an eviction order.
5. In any event, based on the information presented on behalf of the Applicant at the CMD, the Tribunal is satisfied both that the Applicant intends to live in the Property for a period in excess of three months, and that it is reasonable to grant the order. The affidavit of the Applicant is clear as to the reasons why he requires to live in the Property. There was no information to suggest that the Respondent has any particular need to remain in the Property, or that the Property has been adapted in any way to suit the Applicant's particular needs. In all of the circumstances, the Tribunal is satisfied that an eviction order should be granted. The Private Residential Tenancy is to be treated as terminated from 26 May 2021.

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.

A.U.

Legal Member/Chair

26/05/21

Date