

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/18/1817

Re: Property at 4/4 Dumbryden Grove, Edinburgh, EH14 2QP (“the Property”)

Parties:

Mr Neil Guthrie, 25 Baird Drive, Edinburgh, EH12 5SB (“the Applicant”), represented by Miss Jacqueline Ridley of Blacklocks, solicitors, Edinburgh.

Ms Amanda Brownlee, 4/4 Dumbryden Grove, Edinburgh, EH14 2QP (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the requirements of Ground 3 of Schedule 3 to the 2016 Act had been met and that an Eviction Order would be issued against the Respondent. The Tribunal determined that the Order should bring the tenancy to an end on 8 February 2019.

Background

By application, received by the Tribunal on 18 July 2018, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant stated that Ground 3 of Schedule 3 to the 2016 Act applied, in that he intended to refurbish the Property with a view to selling it. The application was accompanied by estimates in respect of replacing laminate flooring, removal of wallpaper and skim plastering and a statement from the Applicant that the toilet and bath were to be replaced.

The Tribunal advised the Parties by letter dated 8 October 2018 that a Case Management Discussion would take place on 24 October 2018 and the Respondent was invited to make written representations by 19 October 2018. In written

representations sent by e-mail on 19 October 2018, the Respondent requested a postponement of the Case Management Discussion, to enable her to seek legal advice. This postponement was granted. The Respondent's written representations referred to issue regarding arrears of rent, but did not make any reference to the reasons cited in the application for the Order being sought.

A Case Management Discussion was held on 10 December 2018. The Applicant's representative was present, but the Respondent was neither present nor represented. The Legal Chair of the Case Management Discussion decided that, as there had been some initial engagement by the Respondent with the Tribunal on 19 October 2018, he would fix a full hearing, to enable the Respondent to attend, with or without legal representation and to enable clarification to be obtained regarding rent arrears and housing benefit.

On 13 December 2018, the Tribunal wrote to the Parties, advising them of the date, time and venue of the hearing.

The Hearing

The hearing took place at George House, 126 George Street, Edinburgh on the morning of 7 January 2019. The Applicant was present and was represented by Miss Ridley. The Respondent was neither present nor represented at the hearing.

The Applicant's representative told the Tribunal that the proposed refurbishment work could not be carried out with a tenant in situ, as the toilet and bath were to be replaced and plasterwork might be required when wallpaper, put up by the Respondent without permission, was removed. Refurbishment work had been under way when the tenancy began, but the Property had been habitable and an upstairs neighbour had told him the Respondent was in need of accommodation and references had been provided. These had turned out to be false.

Reasons for Decision

The Tribunal was of the view that matters relating to references, housing benefit and arrears of rent were not relevant to the application before it and that the only matter for consideration was whether Ground 3 of Schedule 3 to the 2016 Act had been established.

Section 51 of the 2016 Act states that the Tribunal is to issue an eviction order if, on an application by the landlord, it finds that one of the eviction grounds named in Schedule 3 to the 2016 Act applies.

Ground 3 of Schedule 3 to the 2016 Act states that it is an eviction ground that the landlord intends to carry out significantly disruptive works to the let property and that the Tribunal must find that the eviction ground applies if the landlord intends to refurbish the let property, is entitled to do so and it would be impracticable for the tenant to continue to occupy the property given the nature of the refurbishment intended by the landlord. The Tribunal was satisfied that it had evidence tending to show that the Applicant has the intention to refurbish the Property and that the proposed work could not practicably be carried out with a tenant in situ.

Decision

The Tribunal decided that the requirements of Ground 3 of Schedule 3 to the 2016 Act had been met and that an Eviction Order would be issued against the Respondent. The Tribunal determined that the Order should bring the tenancy to an end on 8 February 2019.

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.

George Clark

Legal Member/Chair

_____ 7 January 2019
Date