



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) Act 2016

Chamber Ref: FTS/HPC/EV/20/2365

Re: Property at 44 Calderpark Street, Lochwinnoch, PA12 4AX (“the property”)

Parties:

Property House Limited, C/O 3A Moss Street, Paisley, PA1 1BG (“the applicant”)

Miss Laura McCrudden, 44 Calderpark Street, Lochwinnoch, PA12 4AX (“the respondent”)

Tribunal Members:

David Preston (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the respondent):

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction be granted in favour of the applicant.

Background:

1. By application dated 11 November 2020 the applicant applied for an order for eviction and possession of the property on the basis of Grounds 14 and 15 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.
2. By Notice of Acceptance dated 16 December 2020, a legal member of HPC with delegated powers, accepted the application and referred it under rule 9 of the Rules to the tribunal for a full hearing.
3. Intimation of the hearing along with a copy of the application and supporting documentation was served on the respondent by Sheriff Officers on 24 December 2020.
4. The relevant papers before the tribunal comprised:
 - a. Private Residential Tenancy Agreement dated 11 May 2020;

- b. Notice to Leave dated 5 October 2020;
- c. Notice under section 11 of the Homelessness etc (Scotland) Act 2003;
- d. Title Information relative to the property – REN110143;
- e. Certificate of Execution of Service dated 24 December 2020.
- f. Emails from neighbours of the property dated between 11 August and 16 September 2020.

Hearing

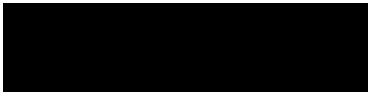
- 5. On 10 February 2021 a hearing was convened by telephone at 10.00am in terms of the Notice of Intimation. Mr Wayne Burrows of Penny Lane Homes Ltd was in attendance on behalf of the applicant. There was no appearance by or on behalf of the respondent.
- 6. Notice of the hearing had been served on the respondent together with a full set of papers relating to the application. The tribunal was satisfied that due notice had been given to the respondent to which she had failed to respond, and she had therefore voluntarily waived her right to attend or be represented and the tribunal was content to proceed in her absence.
- 7. Mr Burrows advised that the property is currently empty, the respondent having returned the keys last week. He said that his client continued to seek an Order for Eviction to ensure that there would be no difficulties when the locks were changed, and possession recovered.
- 8. Mr Burrows was referred to the emails which had been lodged and were dated to between 11 August and 16 September 2020 all of which took the form of complaints from various neighbours about excessive disturbance at the property being caused by the respondent or her boyfriend who had been living with her at the property without authority and without having notified the landlord or his agents.
- 9. Mr Burrows advised that since September there has been ongoing disturbance caused by the respondent although it was not with the intensity of the period between August and September. He understood that the respondent's boyfriend had been absent from the property and was believed to have been in prison. There were further difficulties in December when he had been contacted by the respondent to advise that she had returned to the property and found the door to be nailed shut and she was unable to gain access. There was also a broken window at the property around this time. Mr Burrows advised that he had no knowledge of how the door had become nailed shut but from the information provided to him by the respondent he believed that neighbours had taken this action. The respondent advised him by email on 1 January 2021 that she did not wish to return to the property as she did not feel safe there and on 6 January 2021 she advised that that she wanted to arrange for the return of her personal belongings from the property as she did not want to return there on her own. It had taken until last week to arrange the return of her belongings at which time the keys were returned.

Reasons for Decision:

10. The tribunal was satisfied that the emails between 11 August and 16 September 2020 demonstrated that the respondent had engaged in anti-social behaviour which had resulted in disturbance being caused to the neighbours of the property and was satisfied that the provisions of ground 14 were established.
11. The tribunal considered the terms of the Coronavirus (Scotland) Act 2020 to which it was required to have regard. The tribunal must be satisfied that the granting of an eviction order is reasonable. In addition to the evidence of antisocial behaviour, the tribunal took into account that the respondent had vacated the property and had returned the keys. She had also indicated that she had no desire to remain in occupation of the property. In these circumstances the tribunal was satisfied that it was reasonable that an Order for Eviction be granted

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.



10 February 2021