



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/23/0872

Property : 3D, Millport, Hawick TD9 9DG (“Property”)

Parties:

AK Properties (Scotland) Ltd, Gairneybank Farm, Kinross, Kinross-shire KY13 9JZ (“Applicant”)

Lowrie Property Ltd, 4 Towerknowe, Hawick TD9 9DQ (“Applicant’s Representative”)

Gwenllian Owen, 3D, Millport, Hawick TD9 9DG (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined to make an order for possession of the Property.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Private Residential Tenancy Agreement dated 27 September 2019; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 (“Act”) dated 8 December 2022 (“Notice to Leave”); sheriff officer certificate of service of the Notice to Leave on 21 December 2022; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 16 March 2023; quote from Lowrie Property Ltd for refurbishment works dated 1 November 2022; land register report showing that the Applicant acquired title to the Property on or about 12 August 2022; email from the Applicant’s Representative dated 1 June 2023 stating that the Notice to Leave was delivered to the Respondent by hand on the date the Notice was prepared and sheriff officer’s execution of service certifying service of the Application on 25 August 2023.

Case Management Discussion

A case management discussion (“CMD”) took place before the Tribunal on 4 October 2023 by teleconference. Julia Grierson of the Applicant’s Representative was in attendance. There was no appearance by or on behalf of the Respondent.

The Tribunal noted that the landlord in terms of the tenancy agreement was Steven Murray but that the Applicant had acquired title to the Property after the tenancy agreement had been entered into. Ms Grierson confirmed that was the case. The Tribunal asked if the Applicant acquired title to the Property with the intention of refurbishing the Property. Ms Grierson said that was correct. She said that the Applicant had acquired all of the six flats in the building. They had all been refurbished and let to third parties. She said that the Property was the last to be refurbished. The Tribunal asked if the Applicant owned other properties. Ms Grierson said that they owned 6 properties aside from this block.

The Tribunal noted that the Notice to Leave had been served by hand delivery. Ms Grierson said that she had delivered the Notice to Leave to the Property. She said that the Respondent was not at home when she delivered the notice so she put it through the letter box. She said that the Respondent is supported by a social worker who would assist with something like that.

The Tribunal noted that the Respondent is registered blind and asked if the Property has been adapted to assist with that. Ms Grierson said it had not been adapted. She said that she understood that the Respondent managed to live in the Property without full time support. She said that the Respondent lives in the Property alone with support from her son who visits regularly. The Tribunal asked if the Respondent had contacted the Applicant’s Representative since service of the Notice to Leave. Ms Grierson said that there had been no contact.

The Tribunal noted from the quote lodged that the proposed refurbishment works were extensive. The Tribunal asked if the Respondent could remain in the Property while work was ongoing. Ms Grierson said she did not think that would be possible. The Tribunal noted the intention to rewire the Property and asked when the last EICR had been prepared. Ms Grierson said that was in March 2021.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Respondent entered into a Private Residential Tenancy Agreement for the Property dated 27 September 2019.

2. The Applicant acquired title to the Property on 12 August 2022.
3. A Notice to Leave was served on the Respondent by hand delivery on 8 December 2022. It stated that an application for an eviction order would not be submitted to the Tribunal before 7 March 2023.
4. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 16 March 2023.
5. The Applicant intends to refurbish the Property.
6. The Applicant is entitled to refurbish the Property.
7. It would be impracticable for the Respondent to continue to occupy the Property given the nature of the refurbishment intended by the Applicant.

Reasons for the Decision

In terms of section 51 of the Act, 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.

In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 3 which is that the landlord intends to carry out significantly disruptive works to, or in relation to, the Property.

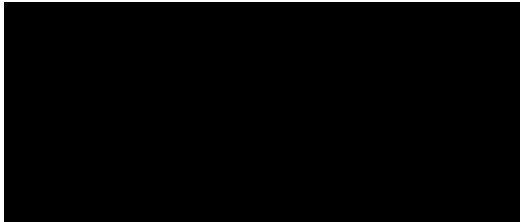
The evidence lodged with the application of intention to carry out works was a quote from the Applicant's Representative dated 1 November 2022. The Tribunal considered the evidence provided and determined that the ground for eviction had been established. The Tribunal considered the oral representations of the Applicant's Representative and, in the absence of a submission from the Respondent, determined that it was reasonable to grant an order for eviction.

Decision

The Tribunal determined to grant an order for possession of the Property.

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.



Date : 4 October 2023