



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/22/2191

Re: Property at 12 Harrismuir Road, Pumpherston, West Lothian, EH53 0NT (“the Property”)

Parties:

Mrs Valerie Davies, TAIGH AN RUBHA, Battery Road, North Queensferry, Fife, KY11 1JU (“the Applicant”)

Miss Fiona Duncan, 12 Harrismuir Road, Pumpherston, West Lothian, EH53 0NT (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Leslie Forrest (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to the Order sought for recovery of possession of the property.

Background

1. The Applicant submitted an application under Rule 109 for an order to evict the Respondent from the property.
2. By decision dated 19 October 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.
3. The Notice of Acceptance was intimated to the Applicant on 28 October 2022. The Tribunal intimated the application to the parties by letter of 29 November 2022 and advised them of the date, time and conference call details of today’s case management discussion on 24 January 2023. In that letter, the parties were also told that they required to take part in the discussion and were

informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 20 December 2022. No written representations were received by the Tribunal.

The Case Management Discussion (“CMD”)

4. Both parties participated in the discussion, which took place by conference call. The Applicant explained that she initially wished to recover possession of the property to allow her to sell that. Her intention had been to purchase another property with her partner. However, her circumstances have changed; following the breakdown of the relationship between her and her partner she no longer intends to sell the property and in fact needs to move into the property. The Applicant is currently renting a caravan until such time as she is able to move back into the property. The Respondent explained that she is not opposed to the application. Following receipt of the Notice to Leave, the Respondent made contact with the local authority to advise that she needs alternative accommodation for her and her two children, aged 17 and 9. The local authority have not made any offer of alternative accommodation and advised the Respondent that no steps would be taken to rehouse her and her family unless and until an eviction order has been granted.
5. The Tribunal adjourned the CMD briefly to allow the members to discuss matters privately in light of the information given at the CMD. When the Tribunal reconvened the CMD, the parties were advised that the Tribunal’s decision was to grant the order for eviction today. The parties were advised that a written decision would be issued by the Tribunal with a statement of reasons. The Respondent provided her email address and consented to the Tribunal corresponding with her by email.

Findings in Fact

6. The parties entered into a private residential tenancy which commenced 1 September 2020.
7. The Notice to Leave was served on the Respondent by email on 26 November 2021.
8. The Applicant intends to live in the property.

Reason for Decision

9. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Tribunal noted that the ground for eviction referred to in the Notice to Leave was ground 1. However, the Tribunal took account of the Applicant’s change of circumstances. In terms of section 52 (5) (a) of the Private Housing (Tenancies) (Scotland) Act 2016, the Tribunal gave permission to the Applicant to proceed on the basis of ground 4, namely that the Applicant intends to live in the property. The Respondent was not opposed

to the application. In light of what was said by the parties, the Tribunal found that it was reasonable to grant the order sought.

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.

N Irvine

Legal Member/Chair

24 January 2023
Date