



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/22/3806

Re: Property at Penelopefield House, Forglen, Turridd, AB53 4LD (“the Property”)

Parties:

Mrs Patricia Steele, Penelopefield, Forglen, Turriff, AB53 4LD (“the Applicant”)

Mr Gavin Jamieson, Penelopefield House, Forglen, Turriff, AB53 4LD (“the Respondent”)

Tribunal Members:

Andrew Upton (Legal Member) and Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted and that the date on which the Private Residential Tenancy between the parties shall terminate is 22 September 2023.

STATEMENT OF REASONS

1. This Application called for its Case Management Discussion by teleconference call on 22 March 2023, together with the related application CV/22/3807. The Applicant and the Respondent were both in attendance.
2. This Application seeks the grant of an eviction order. The Applicant contends that the Respondent is in rent arrears, has been so for in excess of three consecutive calendar months, and that it is reasonable to grant the eviction order under Ground 12 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”).

3. The Respondent accepted that Ground 12 of the 2016 Act was established. He admitted that he was due to pay the sums claimed by the Applicant as rent and as a tenancy deposit, which amounted to the total sum of £6,600.
4. The Respondent also accepted that it was reasonable to grant the eviction order. He said that, following the break-up of his relationship, he is unable to afford the Property. He spoke of being in debt, and this causing him severe depression. He said that he has sought debt advice, and has spoken to the local authority about moving into affordable housing, but has been told that he cannot be rehoused unless and until an order for his eviction has been granted. He indicated that he would be happy to be evicted, since this would let him move to something that was affordable. He said that he did not want to continue to be a cause of stress for the Applicant.
5. In all of the circumstances, and in light of the Respondent's candid submissions, the Tribunal was satisfied that Ground 12 of the 2016 Act applied and that it was reasonable to grant an eviction order.
6. The Notice to Leave founded upon in this case is dated 9 September 2022. The Application was lodged on or around 11 October 2022. As such, the eviction order is granted in proceedings raised before the coming into force of paragraph 1 of Schedule 2 to the Cost of Living (Tenant Protection) (Scotland) Act 2022 ("the 2022 Act"). In terms of paragraph 1 of the 2022 Act:-

“(1) Where a decree for removing is granted in proceedings raised after this paragraph comes into force, no person may—
(a) serve a charge for removing in respect of the decree,
(b) execute the decree.
(2) Where a decree of removing is or was granted in proceedings raised before this paragraph comes into force in relation to an eviction notice served on or after 6 September 2022 or, in proceedings raised on or after that date (and before this paragraph comes into force) without the need for an eviction notice, no person may—
(a) if a charge for removing has not been served in respect of the decree, serve any such charge,
(b) if the decree has not been executed, execute the decree.
(3) Sub-paragraphs (1) and (2) apply until the earlier of—
(a) the end of a period of 6 months beginning with the day on which the decree for removing is or was granted,
(b) the expiry or suspension of this paragraph in accordance with Part 2...”
7. It follows that, in terms of the 2022 Act, the Tribunal's order cannot now be executed until either the expiry of a period of 6 months beginning on 22 March 2023, of the expiry or suspension of paragraph 1 of Schedule 2 of the 2022 Act. The Eviction Order will reflect that.

8. Finally, for the purposes of section 51(4) of the 2016 Act, the Tribunal determined that the Private Residential Tenancy between the parties will terminate on the date when the eviction order can be enforced.

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.

Andrew Upton

22/03/2023

Legal Member/Chair

Date