



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/23/1348

Re: Property at 71A Main Street, Airdrie, ML6 8SB (“the Property”)

Parties:

Mr Gary O'Hagan, Knoxland Properties Limited, 152 Slateford Road, Bishopton, PA7 5FU (“the Applicant”)

Ms Jade James, 71A Main Street, Airdrie, ML6 8SB (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Mike Scott (Ordinary Member)

Decision (in absence of the Respondent)

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 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order to evict the Respondent from the property.
2. By decision dated 22 May 2023, a Convenor of the Housing and Property Chamber having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Notice of Acceptance was intimated to the Applicant’s representative on 26 May 2023. The Tribunal intimated the application to the parties by letter of 15 June 2023 and advised them of the date, time and conference call details of today’s case management discussion (“CMD”). 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 6 July 2023. No written representations were received.

4. On 22 June 2023, the Tribunal received written submissions from the Applicant's representative, attaching photographs of the property.

The case management discussion

5. The CMD took place by conference call. The Applicant joined the conference call and was represented by Mrs Sarah Cooper, solicitor. The Respondent did not join the conference call and the discussion proceeded in her absence. The Applicant's representative was not aware of the Respondent having any dependents. The Applicant did not give consent to the Respondent keeping animals in the property. The SSPCA removed 2 cats from the property. It is believed that the Respondent may have given keys to the property to other individuals but she has not been occupying the property. The Applicant's representative moved for an order evicting the Respondent from the property and relied on grounds 10 and 11.

Findings in Fact

6. The parties entered into a private residential tenancy which commenced 10 September 2022.
7. The Applicant served the Notice to Leave on the Respondent by email on 12 March 2023.
8. The Respondent did not occupy the property as her home.
9. The Respondent failed to comply with paragraph 34 the tenancy agreement.

Reason for Decision

10. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Respondent failed to participate in the discussion and did not lodge any written submissions. The information before the Tribunal was that the Respondent was not occupying the property as her home. Neighbours had reported concern for the welfare of 2 cats within the property. The SSPCA monitored the property and found that nobody was living in the property and thereafter made arrangements to remove the cats. The Respondent did not obtain written consent from the Applicant to keep pets in the property. Moreover, she did not keep those pets under supervision and control. The Tribunal took account of the Respondent's circumstances as known to the Applicant. There was nothing to indicate that the Respondent disputed anything contained within the application. The Tribunal was satisfied

that the grounds for eviction were established and that it was reasonable to grant the order evicting the Respondent from 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.

Nicola Irvine

Legal Member/Chair

24 July 2023

Date