



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/19/0109

Re: Property at 7 Allantonpark Terrace, Fairlie, KA29 0AW (“the Property”)

Parties:

Mr William Elliot, 9c Orchard Street, West Kilbride (“the Applicant”)

Mr Robert McQueen, 7 Allartonpark Terrace, Fairlie, KA29 0AW (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

This is an application for an eviction order dated 8th January 2019 and brought in terms of Rule 109 (Application for an eviction order) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant seeks an eviction order in relation to the Property against the Respondent, and provided with his application copies of the private residential tenancy agreement, notice to leave, and section 11 notice.

All of these documents and forms had been correctly and validly prepared in terms of the provisions of the *Private Housing (Tenancies) (Scotland) Act 2016*, and the procedures set out in that Act appeared to have been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 29th March 2019, and I was provided with the execution of service.

Case Management Discussion

A Case Management Discussion was held on 17th April 2019 at Ardrossan Civic Centre, Glasgow Street, Ardrossan. The Applicant did not appear, but was represented by Mrs McCallum and Miss Austin, letting agents. The Respondent did not appear, nor was he represented. The Respondent had not responded to this application at any stage either in writing or by any other form of communication.

I was invited by Mrs McCallum with reference to the application and papers to grant the order sought on ground 4 of Schedule 3 to the *Private Housing (Tenancies) (Scotland) Act 2016*.

The notice to leave dated 23rd August 2018 narrated that “the landlord requires to use this property as residence due to treatment for illness”. Mrs McCallum explained that the Respondent attended at her office and personally collected the notice to leave on 23rd August 2018, so that he could provide a copy of it to the local authority in support of his intended application for public sector housing.

Mrs McCallum explained that the Applicant previously lived abroad, retaining a residence at a property in West Kilbride. He had concluded a contract for the sale of that property, after which he received a cancer diagnosis, and he then returned to Scotland for medical treatment. He requires the Property to reside in now that he has returned to this country, and in circumstances where he has now sold his other property in this country.

Statement of Reasons

In terms of Section 51 of the *Private Housing (Tenancies) (Scotland) Act 2016* (“the Act”), the 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.

Para 4 of Schedule 3 to the Act provides that it is an eviction ground that the landlord intends to live in the property. The Tribunal must find that this ground applies if the landlord intends to occupy the let property as the landlord's only or principal home for at least 3 months.

The Tribunal is satisfied that ground 4 has been established. Mrs McCallum has advised the Tribunal that the Applicant intends to occupy the let property as his only home for the foreseeable future, and for at least 3 months, while he undergoes medical treatment for his condition.

Decision

In these circumstances, the Tribunal will make an order for possession of the house let on the tenancy as sought in this application.

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.Kinnear

Legal Member/Chair

17/04/19

Date