



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/23/2734

Re: Property at 197 The Auld Road, Cumbernauld, G67 2RQ (“the Property”)

Parties:

Ms Kirsty Rae, 14 Liddel Road, Cumbernauld, G67 1JD (“the Applicant”)

Mr Kevin MacGregor, 197 The Auld Road, Cumbernauld, G67 2RQ (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Angus Lamont (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. A Convenor of the Housing and Property Chamber (“HPC”) having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. Letters were issued on 20 October 2023 informing both parties that a CMD had been assigned for 28 November 2023 at 2pm, which was to take place by conference call. 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 10 November 2023. No written representations were received by the Tribunal.

The case management discussion

4. The CMD took place by conference call. The Applicant joined the conference call. The CMD initially proceeded in the absence of the Respondent, although he joined the call at 14:15. The Applicant explained that she intends to sell the property to alleviate financial hardship. After she served the Notice to Leave on the Respondent, she discussed the possibility of him buying the property. That did not come to pass, and she now needs to sell the property. The Applicant produced a home report and a schedule of income and expenditure. Although ground 1A is not one of the grounds mentioned in the Notice to Leave, the Applicant wished to proceed on the basis of that.
5. The Respondent did not oppose an order being granted but did oppose it being granted on the basis of ground 1A. He explained that he intended to buy the property but could not obtain a mortgage to enable him to do so. Although he has not been in touch with the local authority, he has looked for alternative accommodation but has not found any. He is in full time employment and has his 8 year old son living with him every Friday to Sunday. If the Tribunal granted an order on the basis of ground 1A, the Respondent and his son would be homeless.
6. The Tribunal adjourned briefly so that the members could discuss matters in light of the parties' submissions. After reconvening, the Tribunal observed that the dispute in this case was whether the Applicant should be allowed to proceed on the basis of ground 1A. The Tribunal explained that, ordinarily, a full hearing is fixed in order to determine such a dispute. Rather than proceeding to a hearing, the Applicant advised that she would proceed on the basis of ground 1, which was the ground of eviction noted in the Notice to Leave. The Respondent did not oppose the application on that basis.

Findings in Fact

7. The parties entered into a private residential tenancy which commenced 8 September 2020.
8. The Applicant served Notice to Leave on the Respondent personally and by email on 14 May 2023.
9. The Applicant intends to market the let property for sale.

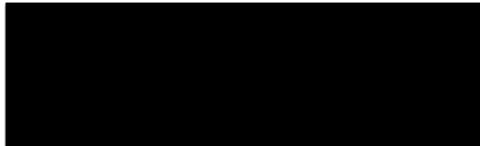
Reason for Decision

10. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Applicant proceeded on the basis of ground 1. She had produced a home report and explained her reasons for

wishing to sell the property. The Respondent did not oppose the application on the basis of ground 1. The Tribunal was satisfied that ground 1 had been established and 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.



Legal Member/Chair

28 November 2023

Date