



The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) in respect of an application under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of the Rules

Chamber Ref: FTS/HPC/EV/23/2456

Re: Property at Flat 1/R, 32 Morley Street, Glasgow, G42 9JB (“the Property”)

Parties:

Ms Carole Ann Thomson, 2L Hazelden Park, Glasgow, G44 3HA (“the Applicant”) per her agents, MSM Solicitors, 43 Crow Road Partick, Glasgow, G11 7SH (“the Applicant’s Agents”)

Mr Michael Peter Woods and Miss Abbie Lois Cartmell, both residing at Flat 1/R, 32 Morley Street, Glasgow, G42 9JB; (“the Respondents”)

Tribunal Members:

Karen Moore (Legal Member) and Elizabeth Williams (Ordinary Member)

Background

1. By application received between 21 July 2023 and 18 September 2023 (“the Application”), the Applicant’s Agents applied to the Tribunal for an Order for eviction and possession of the Property based on Ground 1 of Schedule 3 to the 2016 Act.
2. The Application comprised the following:
 - i) copy private residential tenancy agreement between the Parties;
 - ii) copy Notice to Leave in terms of Grounds 1, the landlord intends to sell the Property, of Schedule 3 to the Act;
 - iii) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Glasgow City Council being the relevant local authority and
 - iv) copy emails from MSM, solicitors and estate agents, confirming instructions to sell the Property when vacant possession is obtained.
3. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (the “CMD”) was fixed for 8 January 2024 at 14.00 by telephone conference. The CMD was intimated to the Parties and, in particular, to the Respondent by Sheriff Officer service on 10 November 2023.

CMD

4. The CMD took place on 8 January 2024 at 14.00. The Applicant was not present and was represented by Mr. J. McNamara of the Applicant's Agents. Mr. Woods and Ms. Cartmell, the Respondents, were present and unrepresented.
5. Mr. McNamara for the Applicant confirmed that the Order is sought. He explained that the Applicant's reasons for selling are that her mortgage on the Property is due to come to term this year and that the Applicant wishes to dispose of her investment. interest only mortgage backed by an endowment policy.
6. Ms. Cartmell for the Respondents stated that they did not formally oppose the Application but had been unable to secure alternative accommodation and so had remained in the Property. She explained that they had been trying to find alternative accommodation but had struggled to fund the deposit required for private lets. Ms. Cartmell explained that the Respondents had moved into the Property having had to move out of their previous tenancy because the landlord of that tenancy was also selling. She explained that balancing the finances of waiting for deposits to be returned to secure future tenancies was difficult but explained that the Respondents were now in a better financial position. Ms. Cartmell explained that the Respondents had only recently become aware that they could approach the local authority and had been taking advice from Shelter and Living Rent websites. She advised the Tribunal that the Respondents are in employment and have no dependants.

Findings in Fact

7. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There is a private residential tenancy of the Property between the Parties which began on 22 November 2022;
 - ii) The Applicant has a mortgage secured on the Property which falls to be repaid in the coming year;
 - iii) The Applicant requires to sell the Property to repay the mortgage and release funds from her investment;
 - iv) The Applicant intends to sell the Property and has instructed selling agents;
 - v) The correct statutory procedures have been carried out;
 - vi) The Respondents are a couple, in employment and have no dependants and
 - vii) The Respondents do not formally oppose the Application but have no alternative accommodation in which to reside and so continue to reside in the Property.

Issue for the Tribunal

8. The issue for the Tribunal was to determine whether or not to grant the Order sought. The Ground on which the Application proceeds is Ground 1 which states *"It is an eviction ground that the landlord intends to sell the let property. (2)The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord (a)is entitled to sell the let property, (b)intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it and (c)the*

Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”

9. The statutory ground and procedure being established, the issue for the Tribunal was to determine if it is reasonable to grant the Order. The Tribunal took the view that it had sufficient information to make a decision on reasonableness and so proceeded to determine the Application.

Decision and Reasons for Decision

10. The Tribunal had regard to all the information before it and to its Findings in Fact.
11. The Tribunal then considered if it could be satisfied it is reasonable to issue an eviction order on account of those facts and on all of the information before it.
12. The Tribunal had regard to the facts that the Applicant’s mortgage on the Property falls to be repaid and that the Applicant requires to sell the Property with vacant possession to do so. The Tribunal had regard to the Respondents’ circumstances and took the view that the homelessness legislation provides a safety net for them. Further, the effect of the Cost of Living (Tenant Protection) (Scotland) Act 2022 is such that any Order cannot be enforced until 31 March 2024 and so the Respondents have a significant period of time to secure housing. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction Order.
13. This decision is unanimous.

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.



08/01/2024

Legal Member/Chair

Date