



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/23/3268

Re: Property at 7 Auldhill Road, Bridgend, EH49 6PD (“the Property”)

Parties:

Mrs Audrey Green, Mr David Green, Castlehill Cottage, Linlithgow, EH49 7LS (“the Applicants”)

Ms Michelle Wardrope, 7 Auldhill Road, Bridgend, EH49 6PD (“the Respondent”)

Tribunal Members:

Graham Dunlop (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it was reasonable to issue an Eviction Order against the Respondent.

Background:

1. By application dated 15 September 2023 the applicants sought an eviction order against the respondents under section 51 of the 2016 Act. The ground relied on was ground 1 of schedule 3 to the 2016 Act, namely that the landlord intends to sell the property.
2. The Tribunal was provided with copies of the notice to leave dated 24 May 2023 advising the above ground in schedule 3 of the 2016 Act, along with copy of the section 11 notice. Regrettably the applicants were unable to locate a copy of the tenancy, although were able to confirm the rent of £500 and other details.
3. The Tribunal was also provided with the Title Deeds and correspondence with the Estate Agent that has tentatively been instructed to market the property in the event that the eviction order is granted.

4. The Tribunal were also supplied with a recent letter from West Lothian Council dated 22 February 2024 stating that the respondent's housing benefits had been suspended over an issue in relation to entitlement.
5. The parties were both advised that a Case Management Discussion would take place on 8 March at 10 am. Notice of the CMD was served on the respondent by Sheriff Officers.

Case Management Discussion

1. The applicants attended the CMD by telephone. The respondent did not attend. The applicants explained that they were struggling financially to make ends meet and required to sell the property to repay secured lending over other properties. The applicants also explained that Mr Green suffered from a debilitating health condition.
2. The applicants explained that the respondents failed to answer telephone calls or emails. They also explained that the respondent had been in receipt of £470 housing benefit until recently, which had stopped in the past month. The respondent had not been paying the £30 rent shortfall for approximately 6 months. The decision to sell the property predated any rent arrears.
3. The applicants stated that the respondent was living in the property alone with no children. The applicants were not aware of the respondent's health.

Reasons for Decision

1. The Tribunal was satisfied that it had sufficient information and documentation to determine the application at the CMD without the necessity of a hearing. Section 51 of the 2016 Act provides that the Tribunal is to issue an eviction order where it finds that one of the eviction grounds named in schedule 3 applies. Ground 1 is relied upon by the applicants namely that they are entitled to sell the property, and intend to do so within 3 months, and that it is reasonable to grant the order.
2. The applicants are the proprietors of the property and therefore entitled to sell the property. The Tribunal found the applicants to be credible and genuinely distressed about their financial situation. The Tribunal has been provided with evidence demonstrating the intention to sell and the financial reasons for doing so were reasonable.
3. The Tribunal had regard to the mortgage payments and that the equity that would be secured from selling the property would reduce other financial commitments which were discussed in detail at the CMD.

4. The Tribunal had regard, albeit it was not determinative, that the respondent was failing to engage with either the respondents or the Tribunal.
5. In all the circumstances the Tribunal found it reasonable to grant the order.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Graham Dunlop

8 March 2024

Legal Member/Chair

Date