



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/23/2413

Re: Property at 3 Wards Avenue, Carnoustie, Angus, DD7 7QX (“the Property”)

Parties:

Miss Rebecca Leiper, 15 Nicoll Place, Carnoustie, Angus, DD7 6GS (“the Applicant”)

Mr Richard Jarvis, 3 Wards Avenue, Carnoustie, Angus, DD7 7QX (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member) and Mary Lyden (Ordinary Member)

Decision

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

Background

This was an application for an eviction order dated 18th July 2023 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 sought an eviction order in relation to the Property against the Respondent and provided with her application copies of the private residential tenancy agreement, notice to leave and proof of service, section 11 notice and proof of service, and various correspondence and proposed property sale agreements.

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 *Coronavirus (Scotland) Act 2020*, and the procedures set out in those Acts 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 12th January 2024, and the Tribunal was provided with the execution of service.

Case Management Discussion

A Case Management Discussion was held at 10:00 on 28th February 2024 by Tele-Conference. The Applicant participated and was not represented. The Respondent participated and was not represented.

The Respondent confirmed that he did not oppose the granting of the order sought and was in contact with his local authority about obtaining public sector housing. He was disappointed to be leaving the Property but recognised the Applicant's reasons for needing to sell it. He got on well with the Applicant who had been a good landlord.

The Applicant explained that due to increases in mortgage rates for mortgages for landlords over let properties, the mortgage payments for the landlord now exceeded the rental income on the Property. If the Applicant did not sell the Property then she would suffer significant financial hardship.

The Applicant was disappointed that she required to sell the Property, which had been the home of her late father, but felt she had no choice but to do so for financial reasons. She confirmed that the Respondent had been a good tenant.

The Respondent invited the Tribunal to provide that the order sought should not be enforced for a period of two months to allow him to progress matters with the local authority. The Applicant confirmed that she was sympathetic to the Respondent's situation and was content with that proposed delay in enforcement.

Statement of Reasons

In terms of Section 51 of the *Private Housing (Tenancies) (Scotland) Act 2016* ("the Act") as amended by the *Coronavirus (Scotland) Act 2020*, 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 1 of Schedule 3 to the Act provides that it is an eviction ground that the landlord intends to sell the let property. The Tribunal may find that this ground applies if the landlord (1) is entitled to sell the let property, (2) 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 (3) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

The Tribunal was satisfied that ground 1 had been established. The landlord was entitled to sell the Property and intended to sell it.

The Tribunal was satisfied that it was reasonable to issue an eviction order. The Respondent did not oppose the order sought. As requested by the Respondent, and with the consent of the Applicant, the Tribunal provided that its order should not be enforced for two months from the date hereof.

Decision

In these circumstances, the Tribunal made an eviction order against the Respondent 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.

28th February 2024

Legal Member/Chair

Date