



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/23/4063

Re: Property at 29 Coll Street, Glasgow, G21 2BH (“the Property”)

Parties:

Mrs Michelle Gibson, 54 Coll Street, Glasgow, G21 2BG (“the Applicant”)

Ms Audrey Moynes, 29 Coll Street, Glasgow, G21 2BH (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant. The Order will not be able to be enforced before 12pm on 31st May 2024.

Background

1. An application was received by the Housing and Property Chamber dated 15th November 2023. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 24th January 2024, all parties were written to with the date for the Case Management Discussion (“CMD”) of 14th March 2024 by teleconferencing. The letter also requested all written representations be submitted by 14th February 2024.

3. On 26th January 2024, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 26th January 2024.
4. On 7th March 2024, the Respondent emailed the Housing and Property Chamber stating that she was to register homeless, that she is a kinship carer and that she was looking for a more permanent tenancy than one in the private rented sector.

The Case Management Discussion

5. A CMD was held on 14th March 2024 by teleconferencing. The Applicant was represented by Ms Karen Duncan and Mr Alan Henderson, Robb Residential. The Applicant was not present. The Respondent was present. The Respondent had her sister in law, Ms Lynne Moynes, present for moral support.
6. Ms Duncan said that the Applicant wishes to sell the Property as it is causing her financial hardship to continue to own it. It is the only property that she owns other than her own residential property. The Applicant wishes to sell with vacant possession so has not yet pursued the sale of the Property beyond that of instruction of an estate agent. Mr Henderson said that it was considered urgent as the Applicant has ill health.
7. There are no issues with the tenancy. The rent is always paid on time. Mr Henderson said that he has been out to the Property for inspections and found it to be in a good condition. He described the Respondent as a lovely tenant.
8. The Respondent said that she lives with her 3 year old granddaughter on a kinship carers basis. She said that she is taking on this responsibility a day at time due to her own health conditions. She has a social worker involved. She is not opposed to an order being granted. She is only concerned about where she is to live as she does not have alternative accommodation. She has registered as homeless and registered with various housing providers but she has not been given any indication of when she may be rehoused.
9. The Tribunal considered it appropriate to grant an order particularly as there was no opposition to an order being granted. The Tribunal considered it fair, reasonable and proportionate to delay the enforcement of the order until 31st May 2024.

Findings and reason for decision

10. A Private Rented Tenancy Agreement commenced 4th February 2020.
11. The Applicant wishes to sell the Property to alleviate financial problems and due to her having ill health.
12. The Applicant has instructed an estate agent to deal with the sale of the Property once she has vacant possession.

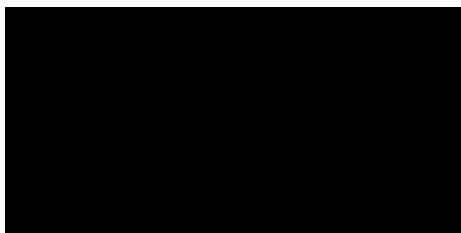
13. The Respondent is not opposed to the granting of an order. She is concerned that she does not have alternative accommodation yet.
14. The Respondent has registered as homeless with her local authority. She has applied to different housing providers for accommodation. She has not had any offers of housing yet. She would prefer to be in social housing as it is a more stable form of housing.
15. There are no issues with the tenancy. The Respondent pays her rent on time and looks after the Property.
16. There are no issues of reasonableness that prevent an order from being granted.

Decision

17. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicant. The Order cannot be enforced until 31st May 2024.

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.



14th March 2024

Legal Member/Chair

Date