



Decision 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/23/3832

Re: Property at 2/1, 144 Hickman Street, Glasgow, G42 8SY (“the Property”)

Parties:

Mr Muhammad Fazil and Sira Kalsoom Fazil, 2/2, 12 Wellgreen, Glasgow, G43 1RR; 2/2, 12 Wellgreen, Glasgow, G43 1RR (“the Applicants”)

Mr Muhammed Asif, 2/1, 144 Hickman Street, Glasgow, G42 8SY (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order against the Respondent for possession of the Property at 2/1, 144 Hickman Street, Glasgow, G42 8S under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) be granted. The order will be issued to the Applicants after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent. The order will include a power to Officers of Court to eject the Respondent and family, servants, dependants, employees and others together with their goods, gear and whole belongings forth and from the Property and to make the same void and redd that the Applicants or others in their name may enter thereon and peaceably possess and enjoy the same.

Background

1. This is an application for eviction for an order for repossession under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”). The Applicants’ case is

based on Ground 4 (Landlord intends to live in the Property) of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”).

Case Management Discussion

2. The Tribunal proceeded with a Case Management Discussion on 25 March 2024 by way of teleconference. Mr Fazil appeared on behalf of the Applicants. Ms McBride from Govanhill Law Centre appeared on behalf of the Respondent.
3. Mr Fazil explained that his family had moved to Pakistan in 2017 to look after his mother. They rented out the Property which had been the family home to the Respondent. His mother was now deceased, and they had returned to live in Glasgow. They had originally moved in with his wife’s family and then managed to secure temporary accommodation with Glasgow City Council where they currently live. He explained he had four children aged 15, 14, 11 and 2. The elder children attend the secondary school near the Property; however it is quite a bit away from their temporary accommodation. He submitted he and his family desperately need the Property back.
4. In response, Ms McBride confirmed the application to evict was not opposed. She explained that the Respondent was a single person with no dependants. He had been attempting to secure alternative accommodation both with local housing associations and with private landlords. He also had a homelessness application which she understood he made as soon as possible. On being questioned by the Tribunal Ms McBride submitted that the Respondent would not get any offer of accommodation until an Order to evict had been granted.

Decision

5. The Tribunal were satisfied that the requirements under the 2016 Act in relation to the service of the Notice to Leave had been met. There was no opposition to the application and no facts were in dispute. The Tribunal was satisfied therefore that the Applicants had established a ground to evict in terms of Ground 4 of Schedule 3 of the 2016 Act and that they had every intention of moving back into the Property as the family home.
6. Further the Tribunal was satisfied that in the circumstances it was reasonable to evict.
7. The Tribunal granted an Order to evict. The decision of the Tribunal was 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.

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.

S. Evans

27 March 2024

Legal Chair

Date