



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/23/4059

Re: Property at 8 Garturk Street, Coatbridge, ML5 4HA (“the Property”)

Parties:

Mr Manvir Singh, Milton House, Milton Lockhart Estate, Rosebank, Carluke, ML8 5QA (“the Applicant”)

Mr Anthony John Bartley, Mr Michael David Bartley, 8 Garturk Street, Coatbridge, ML5 4HA (“the Respondents”)

Tribunal Members:

Graham Harding (Legal Member) and Gordon Laurie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondents from the property.

Background

1. By application dated 15 November 2023 the Applicant’s representatives, Jewel Homes, Coatbridge applied to the Tribunal for an order for the eviction of the Respondents from the property in terms of Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Applicant submitted a copy of a tenancy agreement, Notice to Leave, Section 11 Notice, Letter from the Applicant to the Applicant’s representatives together with other documents in support of the application.
2. By Notice of Acceptance dated 31 January 2024 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondents by Sheriff Officers on 2 April 2024.

The Case Management Discussion

4. A CMD was held by teleconference on 8 May 2024. The Applicant's representative Ms Vikki Maguire and the Respondents attended in person.
5. The parties were in agreement that the Respondents had commenced their tenancy of the property on 25 April 2021 at a rent of £350.00 per calendar month.
6. The Respondents confirmed that they had been served with a Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act on 28 July 2023 that provided that the Applicant would not raise proceedings for their eviction before 23 October 2023.
7. The Tribunal noted that the Applicant's representatives had sent a Section 11 Notice by email to North Lanarkshire Council on 15 November 2023.
8. The First Respondent, Mr Anthony Bartley advised the Tribunal that he had moved out of the property three or four months ago and was not opposing the application.
9. The Second Respondent advised the Tribunal that he would like to move out of the property but did not have the financial means to do so. He confirmed that he had applied for local authority housing and had attended at the Council offices but had not been offered any accommodation.
10. For the Applicant, Ms Maguire explained that due to a change in his personal circumstances the Applicant had decided to sell his entire portfolio of rented properties. She said that some had already been sold to other landlords but that some like this property required to be sold with vacant possession due to issues with the heritable security. The Respondents also said that there were issues with moisture in the walls of the property that would make it difficult to sell to another landlord.
11. In response to a query from the Tribunal, Ms Maguire said that the Applicant had eleven properties left in his portfolio, three of which were on the market with tenants in situ and a further two were proceeding with applications before the First-tier Tribunal. Ms Maguire said no action had yet been taken in respect of the remaining properties and that she was not aware of any particular reason for the Respondents' property being selected for sale. Ms Maguire went on to say that in her experience the Council would not assist the Second Respondent to find other accommodation unless and until an eviction order was granted.

12. In response to a further query from the Tribunal Ms Maguire said that if the order was not granted it would still be the Applicant's intention to recover the property but that she would advise him to consult a solicitor. She also confirmed that she would assist a tenant in finding alternative accommodation and confirmed that there were no issues with the Respondents' payment of rent.
13. In response to a query from the Tribunal the Second Respondent advised that he was 27 years old and unemployed with no health issues. He said he had been told by his social worker that he was a top priority for being provided with accommodation but that he would not be given anything until an eviction order was granted. The Second Respondent advised the Tribunal that he did not have the financial means to find private accommodation and that he was in receipt of Universal Credit.

Findings in Fact

14. The Respondents commenced a Private Residential Tenancy of the property on 25 April 2021.
15. A Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act was served on the Respondents on 28 July 2023.
16. A Section 11 Notice was sent to North Lanarkshire Council on 15 November 2023.
17. The Applicant has instructed Jewel Homes, Coatbridge to market the property for sale.
18. The Applicant has had a change of circumstances and has decided to sell his entire portfolio of rental properties.
19. The First Respondent has moved out of the property.
20. The Second Respondent continues to live in the property but would like to leave but cannot afford other private lets.
21. The Second Respondent has applied for local authority accommodation and has been advised he has priority subject to an order for eviction being made.
22. The Respondent is unemployed and in receipt of Universal credit and his rent is paid up to date.

Reasons for Decision

23. The Tribunal was satisfied from the documents submitted and the oral submissions of both parties that the parties entered into a Private Residential tenancy that commenced on 25 April 2021. The Tribunal was also satisfied that a valid Notice to Leave had been served on the Respondents under Ground 1 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to North Lanarkshire Council by way of a Section 11 Notice. The Tribunal was also satisfied from the documents produced and the oral submissions on behalf of the Applicant that he intends to use Jewel Homes to market the property for sale.
24. The Tribunal was therefore satisfied that procedurally the criteria for granting an order for the eviction of the Respondents from the property had been met subject to it being reasonable for such an order to be made. In reaching a decision on reasonableness the Tribunal noted that neither party took any issue with the other party's position as stated by them. The Tribunal therefore had to balance the needs of the Applicant with the needs of the Respondents in arriving at a decision. On the one hand there was the Applicant who due to a change in his personal circumstances was disposing of his whole portfolio of properties. On the other hand, the First Respondent had already moved out of the property and did not oppose the order being granted. The Tribunal whilst acknowledging that the Second Respondent's circumstances were more challenging also took account of the fact that he too was not opposing the order but rather was having difficulty finding accommodation. Nevertheless, the Second Respondent had been advised by his social worker that he would receive priority for housing if an eviction order was granted,
25. After carefully considering the circumstances of both parties the Tribunal was satisfied it was reasonable to grant the order but in order to give the Second Respondent some additional time to find suitable alternative accommodation the order would not come into effect for a period of two months.

Decision

26. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing, finds the Applicant entitled to an order for the eviction of the Respondents from the property.

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 May 2024

Legal Member/Chair

Date