

Housing and Property Chamber
First-tier Tribunal for Scotland



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/19/1146

Re: Property at 277 Chirnside Road, Glasgow, G52 2LG (“the Property”)

Parties:

Mr Richard Paul, 68 Ladykirk Drive, Glasgow, G52 2NY (“the Applicant”)

Ms Angela Todd, 277 Chirnside Road, Glasgow, G52 2LG (“the Respondent”)

Tribunal Members:

Jim Bauld (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted

Background

By application received 12 April 2019, the applicant sought an order under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and in terms of rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. On 15 May 2019 the application was accepted by the tribunal and referred for determination by the tribunal.

A Case Management Discussion was set to take place on 27 June 2019 and appropriate intimation of that hearing was given to both the landlord and the tenant

The Case Management Discussion

The Case Management Discussion (CMD) took place on 27 June 2019. The applicant was represented by Carl Logan. The Respondent did not attend

The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters

The tribunal asked various questions of the applicant's representative with regard to the application and the grounds for eviction contained within it .

The representative confirmed that the applicant wished the order sought to be granted

Findings in Fact

The Applicant and the Respondent as respectively the landlord and tenant entered into a tenancy of the property on 23 November 2018.

The tenancy was a private residential tenancy in terms of the Act

On 19 March 2019 the applicant served upon the tenant a notice to leave as required by the Act. The Notice became effective on 20 April 2019.

The notice informed the tenant that the landlord wished to seek recovery of possession using the provisions of the Act.

The notice was correctly drafted and gave appropriate periods of notice as required by law.

The notice set out two grounds contained within schedule 3 of the Act, namely ground 1, that the landlord intends to sell the property and ground 4 , that the landlord intended to live in the property.

The landlord has now taken up employment in New Zealand and has recently moved to live in New Zealand and no longer wished to live in the property

The landlord wishes and intends to sell the property and has instructed an estate agent to market the property for sale

The basis for the order for possession was accordingly established

Reasons for Decision

The order for possession was sought by the landlord based on grounds specified in the Act and properly narrated in the notice served upon the tenant. The tribunal was satisfied that the notice had been served in accordance with the terms of the Act and that the landlord was entitled to seek recovery of possession based upon that ground and the relevant terms of the tenancy agreement which had been lodged with the application.

The tribunal noted that the landlord no longer wished to rely upon ground 4 contained within schedule 3 of the Act. The landlord had now moved to New Zealand and did not intend to live in the property. The tribunal was satisfied that the landlord wishes to sell the property and that he intends to do so.

The tribunal accepted the evidence of the landlord with regard to his intention to sell the property. The representative produced clear evidence that the applicant had instructed a firm of estate agents to market the property for sale. An email was produced from Walker Wylie, estate agents, Glasgow confirming they had been instructed to sell the property as soon as the current tenant has vacated it.

Decision

The order for recovery of possession is granted

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.

J Bauld

27 June 2019
Date

*Insert or Delete as required