



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 and Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Rules”)

Chamber Ref: FTS/HPC/EV/20/1393

Re: Property at 8C Downie Place, Musselburgh, East Lothian, EH21 6JW (“the Property”)

Parties:

Mr Robert Richards and Mrs Shelagh Richards, Flat B, Old Mansion House, Newbyth, East Lothian, EH40 3DU (“the Applicants”)

Rentlocally.co.uk Ltd, 109/1 Swanston Road, Edinburgh, Eh10 7DS (“the Applicants’ Representative”)

Mr Antoine Breathnach, 8C Downie Place, Musselburgh, East Lothian, EH21 6JW (“the Respondent”)

Tribunal Members:

Ms. Susanne L. M. Tanner Q.C. (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) was satisfied that Ground 1 in Schedule 3, Part 3 to the 2016 Act was established by the Applicant, in that (a) the Applicants are entitled to sell the Property, and (b) intend to sell it for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it; and made an order for eviction in terms of Section 51 of the 2016 Act.

Reasons

1. Procedural Background

- 1.1. On 24 June 2020, the Applicant's Representative made an application to the tribunal in terms of Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act") and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 ("the 2017 Rules").
- 1.2. The Applicants seek the Respondent's eviction from the Property in terms of Section 51 of the 2016 Act under Ground 1 of Schedule 3 to the 1988 Act.
- 1.3. The Applicants' Representative lodged with the Application:
 - 1.3.1. Landlord letter of authority;
 - 1.3.2. Copy Private Residential Tenancy agreement;
 - 1.3.3. Email serving Notice to Leave documentation;
 - 1.3.4. A Notice to Leave emailed to tenant;
 - 1.3.5. Guidance Notes for tenant, emailed to tenant;
 - 1.3.6. Estate Agents' letter of engagement emailed to tenant; and
 - 1.3.7. A Section 11 notice sent to the local authority by email.
- 1.4. On 23 June 2020, the tribunal's administration obtained the title sheet for the Property which shows that the Applicants are the joint registered proprietors of the Property.
- 1.5. On 6 July 2020, the Application was accepted for determination by a tribunal. Both parties were notified by letters dated 29 July 2020 of the date, time and arrangements for a Case Management Discussion ("CMD") teleconference in relation to the Application on 20 August 2020 at 1000h. The Respondent was invited to make written representations in response to the Application by 17 August 2020. The parties were advised that they were required to attend the CMD. The parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing an eviction order. The parties were also advised that if they do not attend the CMD this will not stop a decision or order being made if the tribunal

considers that it has sufficient information before it to do so and the procedure has been fair.

1.6. The Application documents and notification of CMD were served on the Respondent by Sheriff Officers on 30 July 2020.

1.7. The Respondent did not submit any representations or make any contact with the tribunal prior to the CMD.

2. CMD: 20 August 2020 at 1000h, teleconference

2.1. Mr Murray of the Applicants' Representative attended on behalf of the Applicants.

2.2. The Respondent attended the CMD.

2.3. The tribunal Chair explained the purpose of the CMD in terms of Rule 17 of the 2017 rules, namely to explore how the parties' dispute may be most efficiently resolved.

2.4. Applicants' Representative's submissions

2.4.1. Mr Murray stated that the Landlord intends to sell the Property. He stated that he had supplied with the application to the tribunal the letter of instruction with an estate agent to sell the property which was also attached to the notice to leave documentation. He stated that it is the intention of the landlords to sell or put it up for sale within three months of the end of the tenancy. He did not think that the home report had been carried out yet but that that would be done when the Applicants have access to the Property in order that the property could be put on the market.

2.4.2. Mr Murray stated that the private residential tenancy agreement was entered into by the first Applicant, Mr Richards, with the consent and authority of the second Applicant Mrs Richards. With the Application, Mr Murray lodged an email of authority on behalf of both Applicants, giving the Applicant's Representative authority to make the application to the tribunal.

2.5. Respondent's submissions

2.5.1. The Respondent stated that he did not oppose the Application because he does not believe that there are any grounds to oppose the application. He stated that obviously he does need a home and he was interested in finding out the timescale for the eviction. The tribunal chair explained the procedure in respect of eviction orders, including the period for appeal which would be stated on the tribunal's decision and the fact that the Applicants' Representative could seek to enforce the order after the appeal period. The tribunal chair also drew his attention to the Section 11 Notice which had been sent to the local authority to inform them about the eviction proceedings and the fact that he may become homeless.

3. The tribunal makes the following findings-in-fact:

- 3.1. The Applicants are the joint registered Proprietors of the Property.
- 3.2. The First Applicant entered into a private residential tenancy for the Property with the Respondent with the consent and authority of the Second Applicant, dated 15 October 2018.
- 3.3. The start date of the tenancy was 15 October 2018.
- 3.4. The private residential tenancy agreement allows for service of notices by email to the email addresses specified for the parties in the agreement.
- 3.5. A Notice to Leave dated 16 March 2020 was served by the Applicants' Representative on the Respondent to his specified email address on 16 March 2020.
- 3.6. The Notice to Leave specified that the Applicants intend to sell the Property and attached a letter of engagement from a solicitor confirming that they are instructed to sell the Property.
- 3.7. The Notice to Leave which was served on the Respondent includes notice that the ground upon which eviction is sought is Ground 1 of Schedule 3 of the 2016 Act.
- 3.8. The Applicants are entitled to sell the Property.
- 3.9. On or about 13 March 2020 the Applicants instructed a solicitor in relation to the sale of the Property.

3.10. The Applicants intend to put the Property up for sale within three months of the end of the tenancy.

4. Reasons

4.1. Because the tribunal was satisfied that the Applicants are entitled to sell the Property and intend to sell it for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy it; and that the Notice to Leave complies with the statutory requirements, the tribunal therefore issued an eviction order in terms of Section 51 of the 2016 Act.

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.

Ms. Susanne L. M. Tanner Q.C.
Legal Member/Chair

20 August 2020