



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/22/1106

Re: Property at 29 Station Road West, Peterculter, Aberdeen, AB14 0US (“the Property”)

Parties:

Mr Brian Lord, 19/48 Soi Panchit 7, KM 17 Phaholyothin Road Soi 60, Kukos Lam Looka, Phatumthani, 12130, Thailand (“the Applicant”)

Mr James Beattie, 29 Station Road West, Peterculter, Aberdeen, AB14 0US (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Elizabeth Dickson (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.

Background

1. An application was received by the Housing and Property Chamber dated 15th April 2022. 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 the Respondent not adhering to ground 1 of the Private Housing (Tenancies) Act 2016.
2. The application included:-
 - a. Copy Scottish Government Model Private Residential Tenancy Agreement with commencement of tenancy being 30th October 2020;
 - b. Notice to Leave signed 10th September 2021 under ground 1 with email service dated 10th September 2021;

- c. Section 11 notice noting proceedings would not be raised before 15th April 2022; and
 - d. A letter of engagement dated 10th May 2022 from Aberdeen Considine solicitors for the sale of the Property.
3. On 16th June 2022, all parties were written to with the date for the Case Management Discussion (“CMD”) of 1st August 2022 at 10am at by teleconferencing. The letter also requested all written representations be submitted by 7th July 2022.
 4. On 17th June 2022, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent personally. This was evidenced by Certificate of Intimation dated 17th June 2022.

The Case Management Discussion

5. A CMD was held on 1st August 2022 at 10am by teleconferencing. The Applicant was represented by Ms Rebecca Esson, trainee solicitor and Mr Aaron Doran, associate solicitor both of Raeburn Christie Clark & Wallace LLP. The Applicant was not present. The Respondent was present and represented himself.
6. Miss Esson stated that she was still motioning for the application to be granted. All the notices had been served correctly. The Applicant now wished to have his Property returned so that he could sell it. The Applicant’s intention was to fund the purchase of a property in Cardiff from the proceeds of the sale of this property. As he was not able to sell this property in time he has had to take out a short term fixed mortgage on the third property that he owns. He now wishes to sell this property to allow for that mortgage to be cleared and to pay funds into the property in Cardiff. Currently this property is costing him ongoing outgoings as he has to pay for insurance, maintenance and any costs that arise. The Applicant is £10 400 pounds in arrears which has been a loss of income to the Applicant. Miss Esson considers it reasonable to grant the order.
7. The Respondent noted that he was not in a position to object to an order being granted. He has contacted his social housing providers close to him to be included on their housing lists but all have told him that there will not be many offers until he is registered homeless. He has lived in the Property for 14 years. After his marriage broke up he signed a new lease on 30th October 2020 as the previous lease was in joint names. The Respondent is living in the Property with this four children aged 18, 14, 9 and 7. He is self employed and struggled financially during the Covid pandemic and with this marriage ending. He has now resumed payments.
8. The Tribunal noted that this was not a rent arrears case. The Tribunal thanked both parties for their information. The information regarding the arrears gave evidence to the Tribunal that the continued ownership of the Property was putting the Applicant under financial pressure.

9. The Tribunal was satisfied that it was reasonable to grant an order for eviction on the basis that the Applicant is intending to sell his property.

Findings and reason for decision

10. A Private Rented Tenancy Agreement commenced 30th October 2020.
11. The Respondent did not have any grounds to object to the granting of an order. The Respondent is actively pursuing social housing.
12. The Applicant intends to sell the Property to make payments to his new house in Cardiff and settle the mortgage on his other house.

Decision

13. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicant.

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.

Gabrielle Miller

1st August 2022

Legal Member/Chair

Date