



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: Reference number: FTS/HPC/EV/22/3288

Order granted on 1 March 2023

Property: 1 Carlaverock Road, Newlands, Glasgow, G43 2SA

Parties:

Sultan Mehmood, residing at 22 Woodrow Road, Glasgow, G41 5PN (“the Applicant”)

Rabia Butt, residing at 1 Carlaverock Road, Newlands, Glasgow, G43 2SA (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)

Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 5 of schedule 3 to the 2016 Act.

Background

1. The Applicant seeks recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicant lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to Leave served on 9 February 2022, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant’s wife is the heritable proprietor of the Property. The applicant provided a mandate from his wife authorising him to act on her behalf.

Case Management Discussion

2. A case management discussion took place by telephone conference at 10.00am on 1 March 2023. The Applicant was present and unrepresented. The respondent was present and represented by Ms M Smith of Castlemilk Law Centre.

Findings in Fact

3. The Tribunal made the following findings in fact at the Case Management Hearing.

(i) On 1 September 2017 the applicant and respondent entered into a private residential tenancy agreement for the property.

(ii) The applicant lives with his wife live in a four bedroomed property with their four sons. One of the applicant's sons married 18 months ago. He and his wife want to move into the property. In the meantime, they live with the applicant, so that seven adults now live in their four bedroomed house.

(iii) The applicant's son and daughter in law are now expecting their first child.

(iv) The applicant's crowded house has placed a strain on his son and daughters-in-law marriage. The applicant's daughter in law is now spending increasing amounts of time with her parents rather than returning to the applicant's house.

(v) The applicant and his wife have three other rental properties, each of which has a tenant who has lived there for longer than the respondent has lived in the property.

(vi) On 9 February 2022, the applicant served a valid notice to leave on the respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 12 October 2022, the applicant applied to the tribunal.

(ix) The Applicant seeks recovery of possession of the Property in terms Ground 5 of schedule 3 to the 2016 Act.

(x) The respondent is a 42 year old single parent with five children, aged 17,16,12,11 and 9 years. The children all attend local schools. The respondent's oldest two children will sit exams in May 2023. The respondent has registered with Glasgow City Council and with local housing associations, but no accommodation will be offered until an order for repossession of the property is made.

(xi) Title to the property rests in the name of the applicant's wife. The lease names the applicant as landlord. The applicant's wife authorises the applicant to act in her name.

(x) The applicant has title to bring this application.

(xi) It is reasonable to grant an order for possession of the property. The respondent has had notice that repossession is a realistic prospect for more than a year. The applicant's son needs to live in the property to ease the overcrowding in the applicant's property and to make provision for his new family. The respondent will be offered alternative accommodation when an order for possession of the property is enforced.

(xii) Although the respondent has had 12 months to seek alternative accommodation, she would benefit from an additional 30 days to make suitable arrangements.

(xiii) The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property.

Reasons for the Decision

The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in in terms Ground 5 of schedule 3 to the 2016 Act is established. The respondent offers no substantive defence to the application, but simply asks for further time before the order can be enforced. For these reasons, the Tribunal determined to grant an Order for possession.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 5 of schedule 3 to 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.

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.

[REDACTED]

Legal Member

1 March 2023

[REDACTED]