

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/19/2022

Re: Property at 1/L 7C Seamore Street, Largs, KA30 9AN (“the Property”)

Parties:

Ms Carole McQuillan, c/o Acre Lettings Ltd, 6 Stanlane Place, Largs, KA30 8DA (“the Applicant”)

Mr Alexander Gilchrist, 1/L 7C Seamore Street, Largs, KA30 9AN (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted without a Hearing and issued an Eviction Order.

Background

By application, received by the Tribunal on 28 June 2019, the Applicant sought an Eviction Order under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 1 of Schedule 3 to the 2016 Act.

The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 28 March 2019, a Notice to Leave dated 1 April 2019 advising the Respondent that the Applicant intended to sell the Property and that an application for an Eviction Order would not be submitted to the Tribunal before 26 June 2019, evidence of receipt of the Notice to Leave by the Respondent on 4 April 2019 and a letter of engagement from DM Hall, chartered surveyors, Irvine, in respect of a Home Report and Single Survey instruction, dated 5 April 2019.

On 26 July 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 13 August 2019. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held at Ardeer Neighbourhood Centre, Shore Road, Stevenston on the morning of 2 September 2019. The Applicant was represented by Miss Andrea Bell of Acre Lettings Limited, Largs. The Respondent was not present or represented. The Applicant's representative told the Tribunal that she understood the Respondent was presently vacating the Property and that the keys would be handed in later in the day, but, as a precaution, the Applicant still wished the Eviction Order to be issued without a hearing. She also told the Tribunal that there had never at any time been any issue with the Respondent, who had been a model tenant. It was simply the case that the Applicant had decided to sell the Property.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it would determine the application without a Hearing.

Section 51 of the 2016 Act states that the Tribunal is to grant an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the Eviction Grounds named in Schedule 3 to the 2016 Act applies.

Ground 1 of Schedule 3 states that it is an Eviction Ground that the landlord intends to sell the Property and that the Tribunal must find that the Ground applies if the landlord is entitled to sell the Property and intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it. Evidence tending to show that the landlord has the intention mentioned in Ground 1 includes a recently prepared Home Report. The Tribunal had not seen a Home Report, but was satisfied with the production of a copy of the letter of engagement from DM Hall and the other evidence before it that the Applicant intends to put the Property up for sale within 3 months of the tenant ceasing to occupy it. The Tribunal was also satisfied from evidence of ownership that the Applicant was entitled to sell the Property. Accordingly, the requirements of Ground 1 of Schedule 3 to the 2016 Act had been met and the Tribunal was bound to issue an Eviction Order against the Respondent.

Decision

The Tribunal determined that the application should be granted without a Hearing and issued an Eviction Order.

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.

George Clark
Legal Member/Chair

_____ 2 September 2019
Date