



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 (Act)

Chamber Ref: FTS/HPC/EV/22/3526

Re: Property at Flat 2/1, 321 Glasgow Harbour Terraces, Glasgow, G11 6BL (“the Property”)

Parties:

Mortgage Trust Ltd, 51 Homer Road, Solihull, West Midlands, B91 3QJ (“the Applicant”)

Kirsty Morrison Meade, Joseph Martin Meade, All Other Occupiers, Flat 2/1, 321 Glasgow Harbour Terraces, Glasgow, G11 6BL (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Leslie Forrest (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for eviction and recovery of possession be granted.

Background

This is an application under Rule 109 and section 51(1) of the Act in respect of the Applicants’ intention to sell the Property and for eviction and recovery of possession on Ground 2 of Schedule 3 to the Act.

The Tribunal had regard to the following documents:

1. Application received 28 September 2022;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 28 September 2018;
3. Notice to Leave dated 14 April 2022 and served by email on that date;
4. Section 11 Notice to Local Authority and confirmation of receipt;

5. Standard Security in favour of the Applicants, registered in the Land Register for Scotland, under title number GLA196617 dated 11 October 2007.
6. Decree for possession of the Property from Glasgow Sheriff Court dated 22 October 2021, under court reference GLW-B956-21.
7. Written Representations from the Respondent dated 13 January 2023;
8. Written Representations from the Applicant dated 23 January 2023.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 19 April 2023. The Applicant did not participate but was represented by its solicitor. The Respondents participated and were represented by their solicitor.

The Applicant's Representative confirmed the sale of the Property was required by the Applicant as lenders who wished to sell the Property with vacant possession.

The Applicant had already agreed to a 12 week extension to afford the Respondents time to obtain alternate accommodation. The Applicant opposed any further delays in granting the order.

The Respondents position was set out in their Written Representations. The Property had been their home for some years. The Respondents had applied to the local authority and various housing associations but had been unsuccessful so far. It was suggested that as no order was in place the Respondents were lower priority than those applicants who were homeless or had an order against them. The Respondents did not oppose the eviction application but did wish some additional time to obtain alternate accommodation.

Having heard from the Parties the Tribunal had regard to the terms of Ground 2:

Property to be sold by lender

2(1)It is an eviction ground that a lender intends to sell the let property.

(2)The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—

(a)the let property is subject to a heritable security,

(b)the creditor under that security is entitled to sell the property,

(c)the creditor requires the tenant to leave the property for the purpose of disposing of it with vacant possession, and

(d)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts

The Tribunal then considered the documentary and oral evidence it had received from the Parties and in so far as material made the following findings in fact:

1. The Parties let the subjects under a PRTA commencing 28 September 2018;

2. The Applicant was the creditor under a standard security over the Property, had called up the security and now held a decree from Glasgow Sheriff Court for possession of the Property;
3. The Applicant intends to sell the Property with vacant possession;
4. Notice to Leave had been served on the Respondents by email on 14 April 2022;
5. The Applicant has engaged solicitors and estate agents to market and sell the Property;
6. Section 11 notification had been served on the local authority;
7. The Respondents had made contact with the local authority and social housing providers without success.

The Tribunal considered all of the evidence and submissions. The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought.

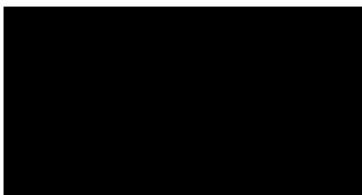
The Respondents' solicitor (and the Respondents themselves) confirmed that the Property is not adapted for any specific needs they may have, and that their expectation were an order to be granted was that the Local Authority would have an obligation to provide accommodation for the Respondents. Applications to numerous Housing Associations are underway

The Respondents had been served with a Notice to Leave over a year ago. They had been applying for alternative accommodation but had been unsuccessful. It was suggested that without an order against them the Respondents were lower priority. The Tribunal considered that in all the circumstances bearing in mind the passage of time and the priority the Respondents would receive it was reasonable to grant the order sought.

The Tribunal was satisfied that Ground 2 had been established and accordingly granted the application for eviction and recovery of possession.

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.



Legal Member/Chair

19 April 2023
Date