



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

Chamber Ref: FTS/HPC/EV/23/0086

Re: Property at 15 Faskin Place, Crookston, G53 7BZ (“the Property”)

Parties:

Ms Nadine Dirienzo, 14 Burnbrae Avenue, Bearsden, Glasgow, G61 3ER (“the Applicant”) per her agents, Castle Residential, 63, Causeyside Street, Paisley, PA1 1YT (“the Applicant’s Agents”)

Ms Ellen Elliot, 15 Faskin Place, Crookston, G53 7BZ (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Ground for eviction and recovery of possession having been established, it is reasonable to grant the Order sought and so the Tribunal granted the Order.

1. By application dated 10 January 2023 (“the Application”), the Applicant’s Agents applied to the Tribunal for an Order for possession of the Property based on Ground 1, the landlord intends to sell the Property, of Schedule 3 to the Act. The Application copy instruction by the Applicant to selling agents, copy Notice to Leave in the correct format and copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Glasgow City Council, being the relevant local authority.. The Application was accepted by the Tribunal and a Case Management Discussion (the “CMD”) was fixed for 12 May 2023 at 14.00 by telephone conference. The CMD was intimated to the Parties and, in particular, was served on the Respondent by Sheriff Officer on 6 April 2023.

CMD

2. The CMD took place on 12 May 2023 at 14.00 by telephone. Mrs. McLellan of the Applicant's Agents took part on her behalf with Ms. Harper as a supporter. The Respondent did not take part and was not represented. She did not submit any written representations.
3. The Tribunal explained that the purpose of the CMD was to identify the issues between the Parties, and in the absence of any response from the Respondent, to determine if the Tribunal can grant the Order. The Tribunal noted from the Application that the correct statutory procedures had been carried out and that the Ground on which the Application were raised are established.
4. Mrs. McLellan advised the Tribunal that the Applicant intended to sell the Property as rental payment from the Respondent have been sporadic meaning that the Applicant cannot rely on the rent to meet her mortgage commitments. She advised that rent amounting to £3,185.00 is due and outstanding to date.
5. With regard to the personal circumstances of the Parties, Mrs. McLellan advised the Tribunal that the Property had been the Applicant's own home and that she has no other rental properties. Mrs. McLellan also advised the Tribunal that, as far as she is aware, the Respondent has a daughter aged around 8- 10 years and is in full time employment. Mrs. McLellan understood that the Respondent still occupied the Property and had made enquiries to find alternative accommodation in the locality of the Property and catchment area of her daughter's school.
6. **Issue for the Tribunal**
 7. The statutory Grounds and the procedure being established, the issue for the Tribunal is to determine if it is reasonable to grant the Order. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "*may do anything at a case management discussionincluding making a decision*". The Tribunal took the view that it had sufficient information to make a decision on reasonableness and so proceeded to determine the Application.

Findings in Fact

8. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There is a tenancy of the Property between the Parties which began on or around 11 January 2019;
 - ii) Rent amounting to £3,185.00 is outstanding and due and owing by the Respondent to the Applicant;
 - iii) The Respondent is sporadic in regard to payment of rent;
 - iv) The Applicant has a mortgage secured on the Property and requires the rental income to be paid regularly to meet the costs of the Property;
 - v) As the Applicant cannot rely on the Respondent to pay rent regularly, the Applicant intends to sell the Property;
 - vi) The Applicant has no other rental properties;
 - vii) The Respondent is in employment;
 - viii) The Respondent has a school aged daughter and
 - ix) The Applicant has carried out the statutory processes required by the Act.

Decision and Reasons for Decision

9. The Tribunal had regard to all the information before it and to its Findings in Fact.

10. The Tribunal then considered if it could be satisfied it is reasonable to issue an eviction order on account of those facts and on all of the information before it. The Tribunal had regard to the financial effect of the Respondent's failure to pay rent regularly on the Applicant and her ability to pay her mortgage. The Tribunal accepted that the Applicant intended to sell the Property to repay the mortgage. The Tribunal had regard to the fact that a child resides in the Property and took the view that, if evicted, the child would be safeguarded from permanent homelessness by the local authority's statutory homelessness duties. Accordingly, the Tribunal was satisfied that it is reasonable to issue 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.

Legal Member/Chair

Date: 12 May 2023.