



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing Act (Tenancies) (Scotland) Act 2016.

Chamber Ref: FTS/HPC/EV/21/2057

Re: Property at 26 Kittlegairy Crescent, Peebles, EH45 9NJ (“the Property”)

Parties:

Taylor Wimpey East Scotland, 1 Masterton Park, South Castle Drive, Dunfermline, KY11 8NX (“the Applicant”)

Ms Karen Cudworth, 26 Kittlegairy Crescent, Peebles, EH45 9NJ (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member) and Mary Lyden (Ordinary Member)

Decision

- 1. The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for the eviction of the respondent from the property at 26 Kittlegairy Crescent Peebles EH45 9NJ be made on the basis of ground 1, that the applicant as landlord intends to sell the property, and it is reasonable in all of the circumstances to grant an eviction order.**
- 2. This was a hearing in connection with an eviction application in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rules 2016, ‘the rules’ and s51 of the Private Housing (Tenancies)(Scotland) Act 2016, the Act’. The applicant was represented by Mr Neil Casey of Shepherd and Wedderburn LLP. The respondent was represented by Ms Claire Cochrane of the Legal Services Agency Ltd.**
- 3. The tribunal had before it the following copy documents:**
 - (a) Application dated 25 August 2021.**
 - (b) PRT dated 12 September 2018.**

- (c) Land certificate.
- (d) Notice to leave dated 13 January 2021.
- (e) S11 notice.
- (f) Email with notice to leave dated 13 January 2021.
- (g) Home report dated 12 August 2021.
- (h) Valuation report dated 12 August 2021.
- (i) Correspondence from the tribunal chamber dated 9 September, 5 October 2021.
- (j) Correspondence from the applicant dated 13 September and 7 October 2021.
- (k) Screenshot of Landlord Registration.
- (l) Exchange of emails between TW East Scotland and the respondent dated June – August 2021.
- (m) Applicant's consolidated inventory of productions.
- (n) Respondent's inventory of productions.
- (o) Respondent's redacted inventory of productions.
- (p) Respondent's written submissions.

Preliminary matters

4. Both solicitors confirmed that the parties had reached an agreement and the respondent was no longer opposed the granting of the eviction. This was on the basis that the tribunal is minded to grant a delay in the execution of the order to 7 August 2022 in terms of rule 16A.

5. The tribunal sought clarification in connection with the applicant's title to seek an eviction. In the light of the respondent's written submissions, the tribunal had written to the applicant's solicitors on 1 February 2022 stating that, according to the documents before the tribunal, the applicant did not appear to be the owner of the property. The land certificate has the owner noted as 'Taylor Wimpey UK Limited, the PRT is in the name of 'Taylor Wimpey' and the landlord registration in the name of 'Taylor Wimpey East Scotland.'. The tribunal had already raised this matter as part of the sifting process on 5 October 2021 and the applicant had replied on 7 October 2021 stating that: 'Taylor Wimpey East Scotland are the landlords of this property, and I can confirm they are a subsidiary company of Taylor Wimpey UK Limited'. Mr Casey advised that he had sent written submissions to the tribunal covering this legal point and other matters shortly before close of business on 4 February 2022. He submitted that Taylor Wimpey East Scotland is simply a trading name for Taylor Wimpey UK Limited and, contrary to what was written on 7 October 2021, it is not a separate legal entity. He submitted that the fact that the lease is in the name of 'Taylor Wimpey' further reinforces this point. Further, he submitted that when the landlord registration application was made in the name of Taylor Wimpey East Scotland to the Scottish Borders Council, the company number for Taylor Wimpey UK Limited submitted (1392762) was the same company number noted on the land

certificate. Ms Cochrane submitted that she accepted the landlord is the owner of the property and therefor entitled to sell.

6. Ms Cochrane submitted that her client was not objecting to the grant of the eviction and the agreed timescale was adequate to enable her to seek alternative accommodation.
7. The tribunal adjourned to read the applicant's submissions and to consider how to proceed.

8. Findings in fact

- (1) The applicant Taylor Wimpey East Scotland is the trading name for Taylor Wimpey UK Limited.
- (2) Taylor Wimpey UK Limited is the owner of the property.
- (3) The parties entered into a PRT for let of the property on 12 September 2018.
- (4) The applicant's designation in the PRT is 'Taylor Wimpey'.
- (5) The applicant is the registered landlord for the property.
- (6) The applicant is entitled to sell the property.
- (7) The applicant wishes to sell the property.
- (8) The applicant instructed a home report dated 12 August 2021.
- (9) A valid notice to leave dated 13 January 2021 was served on the respondent on 13 January 2021.

Reasons

9. This was an unopposed application for eviction in connection with a PRT. The tribunal was satisfied that it had sufficient information before it to make a decision and the procedure had been fair.
10. Given the amendments of the Coronavirus (Scotland) Act 2020, the tribunal must be satisfied that the eviction ground is met and that it is reasonable in all of the circumstances to grant the eviction. The tribunal was satisfied on the evidence produced by the applicant that the eviction ground was met. The tribunal was satisfied that the applicant was entitled to sell the property as the applicant's solicitor clarified that the applicant is using a trading name and is not a separate legal entity. The applicant is therefore the owner and is entitled to sell. The applicant has produced a recent home report which was obtained around the time of the application. The applicant's solicitor has also set out in his written submission why the sale of the property is sought, namely that the respondent was advised when she rented the property that the applicant ultimately intended to sell. The respondent expressed an interest in purchasing the property, was given a lower rent and first refusal on any sale.

11. The respondent is not in a position to purchase the property and she has been seeking alternative accommodation. She has three children residing with her and she has specific requirements for any future property due to her family's needs. The respondent is not opposed to the eviction being granted provided that there is a 6 month delay in execution until 7 August 2022.

12. Having regard to the whole circumstances of the case, the tribunal was satisfied that it was reasonable to grant the eviction. In terms of rule 16A (d) of the rules, the eviction will not be executed before 7 August 2022.

L. Ward

7 February 2022

Lesley A Ward Legal Member

Date

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.