



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/21/2474

Re: Property at 35 Taylor Road, Whitburn, West Lothian, EH47 0LY (“the Property”)

Parties:

Mr Mark Lynch, 30 Station Road, Okehampton, Devon, EX20 1EA (“the Applicant”)

Mrs Siobhan Clark, 35 Taylor Road, Whitburn, West Lothian, EH47 0LY (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

- Background
- 1. An application was submitted to the Tribunal under Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought a repossession order against the Respondent on the basis of the Applicant’s intention to sell the Property, being Ground 1 under Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”).

- Case Management Discussion

2. A Case Management Discussion ("CMD") took place on 25 February 2022. The Applicant and the Respondent were personally present.
3. The Applicant moved for the Order to be granted as sought. The parties had entered into a Private Residential Tenancy Agreement ("the Agreement"). The Applicant intended to sell the Property and required vacant possession in order to do so. A Notice to Leave had been served on the Respondent on 7 April 2021, on the basis of Ground 1 of Schedule 3 to the 2016 Act. The Applicant had engaged the services of a letting agent to market the Property as soon as it becomes vacant. The Applicant finds letting out a property too difficult and he no longer wishes to be a landlord.
4. The Respondent submitted that she did not oppose the granting of the order. She has five children (aged 17, 8, 7, 5 and 3 years). The Property is not suitable for them. It only has three bedrooms. She needs a larger house. She has applied for housing with the local authority and the local authority are awaiting the outcome of the CMD before they can progress further.
5. The following documents were lodged alongside the application:
 - (i) Copy Private Residential Tenancy Agreement
 - (ii) Copy Notice to Leave
 - (iii) Section 11 notification to the local authority under the Homelessness etc. (Scotland) Act 2003
 - (iv) Letter from Caesar & Howie confirming instruction re appraisal of the Property for marketing for sale

- Findings in Fact

6. The Tribunal made the following findings in fact:
 - (i) The parties entered into a Private Residential Tenancy Agreement;
 - (ii) The Applicant is the heritable proprietor of the Property;
 - (iii) The Applicant is entitled to sell the Property;
 - (iv) The Applicant has served a Notice to Leave on the Respondent on the basis of Ground 1 of Schedule 3 to the 2016 Act;
 - (v) The Applicant has provided a letter of engagement from an estate agent regarding the marketing of the Property.

- Reasons for Decision

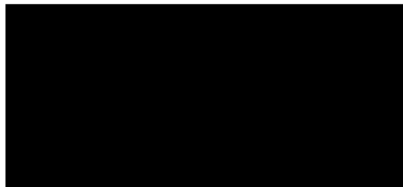
7. The Tribunal was satisfied that the terms of Ground 1 of Schedule 3 to the 2016 Act had been met, namely that the Applicant intends to sell the property and intends to do so within 3 months of the Respondent ceasing to occupy it. The Tribunal was satisfied that a Notice to Leave had been served on the Respondent and which specified that ground, in accordance with the requirements of section 52 of the 2016 Act. The Tribunal was satisfied that it was reasonable to grant the order. The Respondent did not oppose the

granting of the order. The house was not suitable for her needs as it is too small, and she wished to be rehoused by the local authority.

- Decision
8. The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 under schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.

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: 25 February 2022