



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.

Chamber Ref: FTS/HPC/EV/21/2652

Re: Property at 3F Bute Avenue, Renfrew, PA4 0DR (“the Property”)

Parties:

Mrs Laura Galloway, 64 Luss Brae, Hamilton, ML3 9UT (“the Applicant”)

**Ms Hayley Marshall, Mr Christopher Bell, 3F Bute Avenue, Renfrew, PA4 0DR;
Unknown, Unknown (“the Respondent”)**

Tribunal Members:

Karen Kirk (Legal Member) and Janine Green (Ordinary Member)

Attendance

Kirsty Morrison, TC Young Solicitors, 7 West George street, Glasgow, G2 1BA attended for the Applicant who was not present.

The Respondents were not in attendance.

Introduction

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application for an Eviction Order under 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (“2016 Act”). The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made.

Decision (in absence)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondent under section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016.

Preliminary Matters

The Respondents were not present at the Hearing and they had been intimated upon. Service by Advertisement on the first Respondent had taken place. Service by Sheriff Officer had taken place on the second Respondent. The Applicant's representative set out that there had been no recent contact with the Respondent.

Summary of Discussion

The Applicant's representative set out that she sought an Eviction Order on behalf of the Applicant who was the heritable proprietor of the property. She set out that she was instructed to seek an order of possession on the basis of Ground 1 of Schedule 3 to the 2016 Act.

The Applicant's representative submitted that the applicant is the proprietor of a Private Residential Tenancy ("PRT") between parties dated 5th March 2019. Further she submitted that on the 16th April 2021 a Notice to leave was served on each respondent by the email addresses stated in the PRT. The Applicant's representative stated that Walker laird have been instructed to sell the property and she referred to particulars of sale and terms lodged in respect to the proposed sale of the property. The Applicant seeks to sell the property as soon as possible. The Application dated October 2021 she said was necessary and the submission was that Ground 1 was established.

In terms of reasonableness the Applicant's submission was that the Applicant requires to sell the property as she has a mortgage on it and with landlord insurance, letting agent fees and safety compliance work it is no longer financially viable to let and is adding to the Applicant's financial strain. The Applicant's representative set out that the arrears for the property are at £6, 995 and a payment order was granted against the Respondents for £3196 in July 2021 under reference CV/21/0917. The second named Respondent remains in the property and had mentioned setting up a payment plan but has made no proposal. The Applicant is struggling financially and has a young family and suffered mental health issues as a result of the stress.

The Respondents circumstances the Applicant's representative set out were that the first Respondent had never resided at the property and that the second Respondent is in receipt of universal credit. The submission was that the Respondents have no dependents to the knowledge of the Applicant and no and may be living with a partner and unaware of disability or special housing needs.

Reasons for Decision and Findings in Fact

1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondents had received notification of the proceedings by Sheriff Officer and advertisement and they had not challenged same by written representations or attendance.
2. The Applicant sought an Order for Eviction in terms of Schedule 3, Part 1, Ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016 on the grounds that the landlord intends to sell the property.
3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the property.
4. The Tribunal was satisfied that under Schedule 3, Part 1, Ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016 an Order for Eviction on the grounds that the landlord intends to sell the property was appropriate.
5. The Tribunal found that the requirements of Ground 1 of Schedule 3, Part 1 to the Act had been met.
6. Further the Tribunal was satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondents by valid means and the Application had been raised after the correct notice period.
7. The Tribunal noted the Local Authority under the 2016 Act had been notified.
8. On the information given to the Tribunal by the Applicant's Representative which was credible the Respondent who resided at the property does not have dependants of housing and health needs known to the Applicant. with her Adult son. They have had significant notice of the proceedings. The Applicant has a mortgage on the property and is in financial strain and seeks to sell the property as soon as possible.
9. The Tribunal found that an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020.
10. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.

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.

K. Kirk

9th March 2022

Legal Member/Chair

Date