



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/22/1350

Re: Property at Corrie Lodge, Mugdock, Glasgow, G62 8EJ (“the Property”)

Parties:

Mr Mark Jones, 9 Ivy Leaf Place, Lennoxton, G66 7GJ (“the Applicant”)

Mr Christopher Ratcliffe, Ms Leslie Doughty, Corrie Lodge, Mugdock, Glasgow, G62 8EJ (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be made in terms of Ground 4 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that it determined that the Applicant intends to occupy the let property as his only or principal home for at least three months and it is reasonable to issue an eviction order on account of that fact.

Background

1. This is an application for an eviction order in terms of Rule 109 of the tribunal rules of procedure. The application was first lodged with the tribunal on the 10th of May 2022 and accepted by the tribunal on 14th June 2022. A case management discussion was fixed for the 24th of August 2022 at 2:00 pm.

Case management Discussion

2. The Applicant attended the case management discussion and was represented by Mr McKeown of Jackson Boyd solicitors. Both of the Respondents attended the case management discussion and the first Respondent Mr Ratcliffe spoke on behalf of both of them.

3. The tribunal had sight of the application, a paper apart, a tenancy agreement, a Notice to Leave, an e-mail sending the Notice to Leave, a notice in terms of section 11 of the Homelessness et cetera (Scotland) Act 2003, together with proof of intimation of this notice to the local authority, an affidavit sworn by the Applicant, a deposit certificate and title deeds for the property.

4. The applicant had entered into a private residential tenancy at the property with the Respondents starting on 8th January 2020.

5. Mr McKeown set out for the tribunal that a Notice to Leave in proper form was sent to the Respondents on 15th of November 2021 and that this expired on the 17th of February 2022. The Applicant wished to move into the let property. He has sworn an affidavit. His position was that he owns the property where he currently lives, a second rental property and the let property. He shares custody of his three children with their mother who lives in Strathblane which is near to the let property. He has a partner who has a school age child. They currently live separately but they want to live together and the fact that the let property has five bedrooms makes it suitable for both of the families to live together as the Applicant's other properties are smaller. In addition, the Applicant's parents live nearby in Lennoxton. The Applicant's partner's child currently attends a school in Motherwell but in the hope that the Applicant and his partner and their respective children could move into the let property they spoke with a headteacher at a school near to the let property in the hope that a place would be available for him in the spring term of 2022. They were hopeful that there would still be a place for this child within the school. Mr McKeown further explained to the tribunal that since the service of the Notice to Leave the tenants had paid no rent and the rent arrears currently stood at £19,300 pounds. Attempts had been made to call them the day before the case management discussion, but this had been unsuccessful.

6. Neither Mr Ratcliffe nor Ms Doughty wished to make any comment on what had been said and indicated that they had no objection to an eviction order being granted. When asked they confirmed that they were still in occupation at the property and had three children living with them.

7. The applicant Mr. Jones explained that during the tenancy attempts to contact the Respondents to understand their circumstances or to support alternative accommodation had not been successful. He had been in quite frequent contact with the Respondents for the first 18 months or so of the tenancy but once the Notice to Leave had been served there was no communication other than by e-mail or directly with the Letting Agent. The Applicant had asked the Letting Agent if he could find the Respondents another property, but he indicated he couldn't recommend them due to the current level of rent arrears accrued at the property. The Applicant indicated that the Respondent Mr Ratcliffe had been in touch in a few times since the Notice to leave had been served and he had been kept aware of developments with the Applicant's intention to move back into the property.

8. Mr McEwan submitted that in all the circumstances it would be reasonable to grant the eviction order given the affidavit regarding the eviction ground and the wider circumstances.

9. The tribunal members were satisfied that they had sufficient information upon which to make a decision and that the proceedings had been fair.

Findings in Fact

10. The Applicant entered into a private residential tenancy with the Respondents at the property from 8 January 2020.

11. The applicant owns three properties including the let property which is the biggest of his properties and has five bedrooms.

12. The Applicant shares custody of his three children with their mother who lives near to the let property in Strathblane.

13. The Applicant has a partner who has a school age son. They currently live separately but wish to live together.

14. The applicant wishes to live with his partner, her child, and his own children at the let property and its size makes it suitable for the two families to live there.

15. The Applicant's parents live near to the let property in Lennoxton.

16. The Applicant and his partner have already made enquiries with a local school regarding a place for the Applicant's partner's son to start at the school.

17. The Applicant intends to live at the let property as his only or principal home for a period of at least three months from when it becomes vacant, along with his partner and their children.

18. A Notice to Leave in proper form giving appropriate notice to the Respondents was sent to them on 15th November 2021.

19. A notice in terms of section 11 of the homelessness et cetera (Scotland) Act 2003 was intimated to the local authority in respect of this application.

20. Rent arrears in terms of the tenancy currently stand at £19300.

Reasons for Decision

The Tribunal found that the eviction ground was established in terms of the information given on behalf of the Applicant and the affidavit signed by him. The Notice to Leave was in proper form and had been properly served giving the appropriate period of notice. The Respondents did not oppose the eviction order and did not suggest it would not be reasonable to grant the order. The tribunal considered all of the circumstances before it and considered it would be reasonable to grant the eviction order.

Decision

The Tribunal determined that an eviction order be made in terms of Ground 4 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 in that it determined that the Applicant intends to occupy the let property as his only or principal home for at least three months and it is reasonable to issue an eviction order on account of that fact.

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

24.8.22

Date