



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/22/2286

Re: Property at 29 West Dyke Drive, Elrick, Westhill, AB32 6QR (“the Property”)

Parties:

Mr Gordon Herd, Mrs Karen Herd, 39 Carnie Park, Elrick, Aberdeenshire, AB32 6HW (“the Applicant”)

Mr Adel Mostafa Assaf, Mrs Subheah Ali Sheik Mohamad, 29 West Dyke Drive, Elrick, Westhill, AB32 6QR; 29 West Dyke Drive, Elrick, Westhill, AB32 6QR (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 5th July 2022. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 1 of the Private Housing (Tenancies) Act 2016.
2. A Case Management Discussion (“CMD”) was held on 30th January 2023 at 10am by teleconferencing. The Applicants were present and represented themselves. The First Named Respondent was present. He told the Tribunal that he did not speak English very well. The Tribunal was very concerned that Mr Assaf could not understand the Tribunal process or the content of the CMD. The Tribunal did not consider it in the interest of justice to continue without an

interpreter being present and decided to continue to a future date to allow an interpreter to attend. Mr Assaf said that it should be an Arabic interpreter. The Tribunal will request appropriate papers from the paperwork to be translated. Mr Herd expressed his frustration and dissatisfaction that the CMD was to be continued. He requested that the next CMD be listed for the following day. The Tribunal noted that this was not possible for procedural reasons. The CMD was adjourned to allow an interpreter to attend the next CMD and for the relevant paperwork to be translated. The Tribunal noted that the Applicants wish to have the first possible date for the next CMD. The Tribunal decided that the current Tribunal members are not required to sit on the next CMD as they did not hear any evidence and it will allow the expedient progress of the CMD.

The Case Management Discussion

3. A CMD was held on 24th April 2023 at 10 am by teleconferencing. The Applicants were present and represented themselves. The Respondents were present and represented themselves. Mr Saad Al-Kodsi, interpreter, was present and translated the proceedings.
4. The Respondents told the Tribunal that they accepted that it was the Applicants right to have their property back. They appreciated that the Applicants were genuine and had been kind to them. They had come to the UK through the UN 6 years ago. They have been waiting on being allocated a house from a housing association. However, they were allocated a property but it was very far from where they are at the moment. They have a 7 year old son and wanted him to stay at his school. This meant that they were not allowed to be allocated another property for 6 months. This has now passed and they are waiting to be allocated a property. They hope to be allocated a property in 4 – 6 weeks.
5. The Applicants confirmed that they are still seeking to sell the Property as it is no longer affordable for them to continue renting out the Property. They did state that they would be willing not to enforce an order before 7th July 2023 to allow the Respondents' son to finish his school year.
6. The Tribunal considered that ground 1 had been met. It also noted that the Respondents were not opposed to an order being granted. There were no issues of reasonableness before them and considered that it was appropriate to grant an order for eviction.

Findings and reason for decision

7. A Private Rented Tenancy Agreement started on 7th March 2019.
8. The Applicants served a Notice to Leave on 29th November 2021 upon the Respondents.
9. The Notice to Leave was based upon ground 1 namely that the Applicants want to sell the Property. The Applicants can no longer afford to rent the Property.
10. The Respondents did not have a defence to oppose the application.

11. The Respondents have been told that their local housing association will rehouse them once an order has been granted.
12. The Tribunal were satisfied that the Applicants intend to sell the Property but that matters had been paused until the Respondents have left the Property.
13. The Tribunal was satisfied that there were no grounds of reasonableness to prevent an order being granted.

Decision

14. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicants.

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.

G Miller

**Gabrielle Miller
Legal Member/Chair**

**24th April 2023
Date**