



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 ('the 2016 Act')

Chamber Ref: FTS/HPC/EV/22/4081

Re: Property at 14 Sandringham Court, Newton Mearns, Glasgow, G77 5DT ("the Property")

Parties:

Mr Stephen McKechnie, 50 Victoria Crescent Road, Dowanhill, Glasgow, G12 9DE ("the Applicant")

Ms Karen Martin, 14 Sandringham Court, Newton Mearns, Glasgow, G77 5DT ("the Respondent")

Tribunal Members:

Ms H Forbes (Legal Member) and Mrs H Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an eviction order should be granted.

Background

1. This is an application received on 10th November 2022 and made in terms of Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended ('the Rules'). The Applicant is the landlord of the Property, and the Respondent is the tenant, in terms of a tenancy agreement that commenced on 16th August 2021.
2. The Applicant lodged a copy of the tenancy agreement, copy Notice to Leave made under ground 1 and dated and served on 8th June 2022 stating that an application for an eviction order would not be submitted before 3rd September 2022, with evidence of email service, copy section 11 notice with evidence of service, and copy terms of business letter in respect of sale of the Property.
3. By letter received on 3rd February 2023, the Respondent made written representations.

The Case Management Discussion

4. A Case Management Discussion took place by telephone conference on 28th February 2023. The Applicant was not in attendance and was represented by Mr David Gibb, Tay Letting. The Respondent was in attendance.
5. Mr Gibb said the Applicant is looking for vacant possession in order to sell the Property. The Notice to Leave and section 11 notices have been served. The Applicant is aware of the terms of The Cost of Living (Protection for Tenants) (Scotland) Act 2022 ('the 2022 Act'), and the moratorium on evictions.
6. The Respondent said she has been making significant attempts to find alternative accommodation. She accepts that the ground is met, and she is aware that the Applicant has sold other properties within her block and neighbouring blocks. She is in weekly contact with the local authority Housing Officer and she is positive she will be offered social housing within the next month. The Respondent said the whole situation has had quite an impact on her. She now needs stability. Responding to questions from the Tribunal, the Respondent said she is at the top of the priority list for social housing and has been awarded a Gold Priority Pass. She does not expect to be offered temporary accommodation.
7. The Tribunal explained the requirement for reasonableness to parties. The Respondent said she did not think it was reasonable that she has now been served notice three times in five years from private landlords. The Respondent spoke of current medical issues. She is unable to work and is in receipt of benefits. She is unable to access mid-market rented properties due to her current circumstances. Her 19-year-old daughter lives with her, and she hopes to have her 22-year-old son also living with her when she moves to another property. The Respondent has taken advice from CAB and Shelter Scotland.
8. Mr Gibb said the Respondent has been a long-term and excellent tenant with Tay Letting and there is much empathy for her position. In terms of reasonableness, the Applicant, who is a commercial landlord with several properties, is currently selling his portfolio and moving into the new-build market. He has sold some properties and all other tenants have had notices served. Mr Gibb offered assistance to the Respondent in terms of help to find alternative accommodation or to provide references.
9. The Respondent said she needs stability. Although social housing is not what she has been used to, she cannot afford to stay in the Property, as she is paying the rent from her savings. The rent for social housing would be less than the private rent she is currently paying. She would wish to be out of the Property before the eviction order can be executed.

Findings in Fact and Law

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- (i) The parties entered into a private residential tenancy agreement in respect of the Property commencing on 16th August 2021.
- (ii) Notice to Leave has been served upon the Respondent.
- (iii) The Notice to Leave was correctly drafted and gave the correct period of notice.
- (i) The Applicant is entitled to sell the Property.
- (ii) The Applicant intends to sell the Property for market value or at least put it up for sale within three months of the Respondent ceasing to occupy the Property.
- (iii) It is reasonable to grant an eviction order.

Reasons for Decision

11. Ground 1 of Schedule 3 of the Act provides that it is an eviction ground if the Landlord intends to sell the let property. The Tribunal may find the ground met if the landlord is entitled to sell the Property and intends to do so for market value, or at least put it up for sale within three months of the tenants ceasing to occupy it. The Tribunal was satisfied that Ground 1 had been established.
12. In considering reasonableness, the Tribunal took into account all the relevant circumstances of the case.
13. The Tribunal considered that the Applicant is a commercial landlord with a significant number of properties. He wishes to sell the Property as he is disinvesting in the private letting sector. The Tribunal took into account that there was no evidence put forward as to the Appellant's personal circumstances that indicated a necessity to sell. His decision appeared to be a commercial decision.
14. The Tribunal took into account the Respondent's situation, accepting that it is not ideal for her to have to leave the Property, particularly when she is suffering from medical issues at this time. The Tribunal took into account that the Respondent has been an excellent tenant during the tenancy, fulfilling her contractual responsibilities even when this has been difficult for her.
15. The Tribunal took into account that the Respondent has been told by the local authority that she will have a property within the next month. She has been awarded high priority, and will not be offered temporary accommodation. The Tribunal considered this is likely to give the Respondent the stability she currently requires for herself and her adult children.
16. The Tribunal took into account the Respondent's submission that she cannot afford to continue to pay rent for the Property, that she is paying the rent from her savings, and that the rent for social housing will be less. The Tribunal took

into account the fact that the Respondent does not wish to stay in the Property.

17. In all the circumstances, the Tribunal decided that it was reasonable to grant an eviction order.

18. Parties should be aware that, although discussions during the CMD centred on 30th September 2023 as the date when the eviction order could be executed, that is actually the date to which the legislation has been extended. **In terms of the legislation, the eviction order cannot be executed before the earlier of a period of 6 months from the date of granting the order, or the expiry or suspension of the legislation, as set out below.**

Decision

19. An eviction order in respect of the Property is granted. The order is not to be executed prior to 12 noon on the earlier of (a) the day following the end of a period of 6 months beginning with the day on which this order was granted, or (b) the expiry or suspension of Paragraph 1 of Schedule 2 of the Cost of Living (Tenant Protection) (Scotland) Act 2022.

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.

H Forbes

Legal Member/Chair

Date 28th February 2023