



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/22/3057

Re: Property at 19 Bruce Street, Airdrie, ML6 9RL (“the Property”)

Parties:

Mr James Hailstones, Mrs Kathleen Hailstones 81 Cromarty Road, Airdrie, ML6 9RL (“the Applicants”)

Ms Roslyn Murphy, 19 Bruce Street, Airdrie, ML6 9RL (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Mary Lyden (Ordinary Member)

Decision

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

Background

- 1.** The Applicants seek an eviction order in terms of Section 51 of the Private Housing Tenancies (Scotland) Act 2016 (“the 2016 Act”). Documents lodged in support of the application include a Tenancy agreement, Notice to Leave, Notice to the Local Authority in terms of Section 11 of the Homelessness etc (Scotland) Act 2003, a statement from the Applicants stating that they intend to sell the property and a letter from an estate agent. The application is based on ground 1 of schedule 3 of the 2016 Act, the landlord intends to sell the let property.
- 2.** A copy of the application and supporting documents were served on the Respondents by Sheriff Officer. Both parties were notified that a case management discussion (“CMD”) would take place by telephone conference

call on 7 March 2023 at 10am, and they were required to participate.

3. The CMD took place on 7 March 2023. The Applicants participated and were represented by Mr McDermott, solicitor. The Respondent also participated.

Case Management Discussion

4. The Respondent told the Tribunal that she has applied for alternative housing with the Local Authority but has been told that she is not a priority until an eviction order is granted. She stated that the application is not opposed but she cannot afford to move to another private let. She told the Tribunal that she has two children, aged 1 and 11. The older child is due to start secondary school in August and she has been able to add other areas to her housing application as a result. This should improve her chances of a suitable offer.
5. Mr McDermott told the Tribunal that the Applicants inherited the property and have let it out since doing so. It is their only rental property. However, they are now in their seventies and no longer want the responsibility of letting out a property. It was always their intention to sell the property at some point.

Findings in Fact

6. The Applicants are the owners and landlords of the property.
7. The Respondent is the tenant of the property in terms of a private residential tenancy agreement.
8. The Applicants are entitled to sell the property.
9. The Applicants intend to market the property for sale when it becomes vacant.
10. The Respondent expects to be offered accommodation by the Local Authority once an eviction order has been granted and does not oppose the application.

Reasons for Decision

11. The application to the Tribunal was submitted with a Notice to Leave dated 17 May 2022 together with post office certificate and track and trace report which establish that the Notice was sent on 17 May and delivered on 18 May 2022. The Notice to leave states that an application to the Tribunal is to be made on ground 1, landlord intends to sell the let property. Part 4 of the notice indicates that the earliest date that an application to the Tribunal can be made is 19

August 2022. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a copy of the Section 11 Notice and evidence that it was sent to the Local Authority by email. The Tribunal is satisfied that the Applicant has complied with Section 56 of the 2016 Act.

12. Section 51(1) of the 2016 Act states, “The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.” Ground 1 of Schedule 3 (as amended by section 43 of the Coronavirus (Recovery and Reform) (Scotland) Act 2022) states “(1) It is an eviction ground that the landlord intends to sell the let property. (2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord – (a) is entitled to sell the let property, (b) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts ”
13. The Tribunal is satisfied that the Applicants, as owners of the property, are entitled to sell same. From the documents submitted with the application, and the information provided at the CMD, the Tribunal is also satisfied that the Applicants intend to market the property for sale when it becomes vacant. They have instructed Countrywide to market the property on their behalf.
14. The Tribunal noted that the Applicants wish to sell the property because they are now in their seventies and do not want to be landlords any longer. The Tribunal also noted that the Respondent does not oppose the application and has been advised by the Local Authority that she is unlikely to be offered accommodation by them until an eviction order is granted. She is hoping to obtain housing from the Council for herself and her children.
15. Having regard to the information provided by both parties, the Tribunal is satisfied that it would be reasonable to grant the eviction order.
16. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act, that the eviction ground has been established, and that it would be reasonable to grant the eviction order.

Decision

17. The Tribunal determines that an eviction order should be granted against the Respondent.

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.

J Bonnar

Josephine Bonnar, Legal Member

7 March 2023