



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/20/1789

Re: Property at 62 Loganswell Road, Deaconsbank, Glasgow, G46 8AX (“the Property”)

Parties:

Church of Scotland General Trustees, 121 George Street, Edinburgh, EH2 4YR (“the Applicant”)

Mr Gurtyan Singh, Mrs Lakhinder Singh, 62 Loganswell Road, Deaconsbank, Glasgow, G46 8AX (“the Respondent”)

Tribunal Members:

Yvonne McKenna (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be granted in relation to the Property.

Background

This is an application for an eviction order dated 18th August 2020 and brought in terms of Rule 109 (Application for an eviction order) of the First -tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended.

The Applicant sought an eviction order in relation to the Property against the Respondent. Along with the application the following documentation was provided; -

Copy Notice to Leave dated 17th February 2020

Section 11 Notice in terms of the Homelessness (Scotland) Act 2003

Private Residential Tenancy commencing 18th April 2018

Proof of Delivery of Notice To Leave served by recorded delivery executions signed for by the Respondents on 19th February 2020 and copy e-mail sent to the Respondents dated 18th February 2020 with Notice to Leave.

Letter of Authority authorising the Applicant's Representative to act dated 26th August 2020

The application was accepted by the Tribunal on 18th September 2020.

The Respondent had been validly served by sheriff officers with the notification, application and papers and guidance notes from the Tribunal on 28th September 2020 and the Tribunal was provided with the executions of service.

The Case Management Discussion (CMD)

The CMD was held at 2.00 PM on 29TH October 2020 by teleconference due to the disruption cause by the COVID-19 pandemic. The Applicant was represented by Mr. Javaid Haq Director of Martin & Co the Applicants representatives and Isabella Brisbane Lettings Administrator.

Both Respondents were personally present on the call.

Both parties were in agreement that the tenancy agreement was between the Applicant and the Respondent. It was a private residential tenancy agreement as defined in the Private Housing (Tenancies) (Scotland) Act 2016 (the 2016 Act).

The Respondent did not dispute that the Property was required by the Applicant for a religious purpose namely for a Minister of the Church of Scotland to reside there. The application detailed that the Property is owned by the Church of Scotland. The current minister for this parish requires the Property urgently. As the tenant did not vacate on the notice date, the minister had to reside in a different area- Bishopbriggs. However, the minister for that parish now requires entry of that property and hence the application required to be made.

The Applicant's Representative invited the Tribunal to grant the order sought with reference to the application and papers on Ground 7 of Schedule 3 to the 2016 Act.

The Respondent did not dispute that the Property was required for a religious purpose as set out in the 2016 Act. The Respondent also accepted that the requisite Notices to Leave had been served.

Mr. Singh explained that he had been struggling to source an alternative property in the same area that would accommodate himself, his wife and their 4 children. He also explained that the children all attended local nursey primary and high schools and that Mrs. Singh worked in the local supermarket.

Reasons for Decision

In terms of Section 51 of the 2016 Act the Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in Schedule 3 applies.

Para 7 of Schedule 3 to the Act provides that

Property required for religious purpose

7(1) It is an eviction ground that the let property is required for use in connection with the purposes of a religion.

(2) The First-tier Tribunal must find that the ground named by sub-paragraph (1) applies if—

(a) the let property is held for the purpose of being available for occupation by a person engaged in the work of a religious denomination as a residence from which the duties of such a person are to be performed,

(b) the property has previously been occupied by a person engaged in the work of a religious denomination as a residence from which that person's duties were performed, and

(c) the property is required for the purpose mentioned in paragraph (a).

(3) In sub-paragraph (2), reference to a person engaged in the work of a religious denomination includes an imam, a lay missionary, minister, monk, nun, priest and rabbi.

The Property is owned by the Church of Scotland General Trustees. They have been the proprietors of the Property as confirmed by a search in the Registers of Scotland since 1983. They are the Applicants. The Property has previously been used for religious purposes in terms of the 2016 Act and is required for this purpose now. This was not disputed by the Respondents. The Tribunal is satisfied in the circumstances that Ground 7 has been established. In the circumstances the order sought is mandatory.

Decision

In these circumstances, the Tribunal makes an order for possession of the Property let on the tenancy as sought in this application.

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.

Yvonne McKenna

**Yvonne McKenna
Legal Member/Chair**

Dated 29th October 2020