

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/21/2465

Re: Property at 2c Jackson Street, Coatbridge, ML5 3NL (“the Property”)

Parties:

NRAM Limited, The Waterfront, Mill Road, Shipley BD17 7EZ (“the Applicant”)

Elaine Reilly, 2c Jackson Street, Coatbridge, ML5 3NL (“the Respondent”)

Tribunal Member:

Karen Kirk (Legal Member) and Elizabeth Currie (Ordinary Member)

Attendance

Miss Louise Gould together with her colleague Kay Steele attended from TLT LLP, 140 West George Street, G2 2HG for the Applicant.

The Respondent was not in attendance.

Introduction

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application for an Eviction Order under 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made.

Decision (in absence)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondent under section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016.

Background/Previous Hearing

This Application previously called before the Tribunal and was adjourned to a further Case Management Discussion. This was to allow the Tribunal in terms of reasonableness to consider and have sight of the correspondence between parties in 2020 and 2021 in terms of the Respondent's vacation of the property. The Applicants Representative prior to this Hearing had lodged copy letters and emails to the Respondent from 2020 and 2021 advising that the Applicant's required to have vacant possession to allow the property to be sold.

Preliminary Matters

The Respondent was again not present at the Hearing and she had been intimidated upon. The Applicant's representative set out that there had been no recent contact with the Respondent.

Summary of Discussion

The Applicant's representative set out that she sought an Eviction Order on behalf of the Applicant's who were the heritable creditor of the property. She set out further that decree for possession was pronounced on 17th September 2020 and that the Applicant sought an Eviction Order in terms of Schedule 3, Part 1, Ground 2 of the Private Housing (Tenancies) (Scotland) Act 2016 that the Applicant is a lender who holds a security and requires vacant possession.

The Applicant's representative submitted that the correspondence lodged since the last hearing established that it was reasonable to grant an order as the Respondent had been aware of the need to sell the property. She submitted that with the passage of time it was also reasonable an order be granted.

Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent had received notification of the proceedings by Sheriff Officer and had not challenged same by written representations or attendance. A further hearing had been fixed with additional notification and no engagement had taken place by the Respondent with the Tribunal.**
- 2. The Applicant sought an Order for Eviction in terms of Schedule 3, Part 1, Ground 2 of the Private Housing (Tenancies) (Scotland) Act 2016 on the grounds that a lender intends to sell the property.**
- 3. The Tribunal was satisfied that the property was subject to a heritable security.**

4. The Tribunal was satisfied that the Applicant under the heritable security intended to sell the property and that they required the Respondent to vacate the property to allow same to be sold.
5. The Tribunal was satisfied that under Schedule 3, Part 1, Ground 2 of the Private Housing (Tenancies) (Scotland) Act 2016 an Order for Eviction on the grounds that the lender intends to sell the property was appropriate.
6. The Tribunal found that the requirements of Ground 2 of Schedule 3, Part 1 to the Act had been met.
7. Further the Tribunal was satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondent by valid means and the Application had been raised after the correct notice period.
8. The Tribunal noted the Local Authority under the 2016 Act had been notified.
9. On the information given to the Tribunal by the Applicant's Representative which was credible the Respondent resided at the property with her Adult son. She had had significant notice of the proceedings. Significant correspondence from the Applicants had been sent to her to inform her of matters.
10. The Tribunal found that an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020.
11. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.

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.

Karen Kirk

2nd March 2022

Legal Member/Chair

Date

