



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

Reference number: FTS/HPC/EV/22/2746

Order granted on 22 November 2022

Property: Cottage 18A (lower) Church Road R, Quarriers Village, Renfrewshire, PA11 3TN

Parties:

Quarriers, a registered Scottish Charity (No. SC001960), having their head office at Quarriers Village, Bridge of Weir, Renfrewshire, PA11 3SX ("the Applicant")

Miss Hayli McGeoghegan, residing at Cottage 18A (lower) Church Road R, Quarriers Village, Renfrewshire, PA11 3TN ("the Respondent")

Tribunal Members:

Paul Doyle (Legal Member)
Elizabeth Currie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 1 of part 1 of schedule 3 to the 2016 Act.

Background

The Applicant seeks recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). The Applicants lodged with the Tribunal Form E. The documents produced were a Tenancy Agreement, a Notice to Leave served on 31 March 2022, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. An extract search sheet was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 2.00pm on 22 November 2022. The applicant was represented by Mr C MacPherson of Brodies LLP, solicitors. The respondent was neither present nor represented. Sheriff Officers served intimation of the time, date, and method of joining the case management discussion on the Respondent on 14 October 2022.

Findings in Fact

The Tribunal made the following findings in fact:

1. On 04 August 2020 the applicant and respondent entered into a private residential tenancy agreement.
2. The rent in terms of the Tenancy Agreement was £800.00 per month.
3. On 31 March 2022 the applicant's Finance and General Purposes Committee resolved to sell their surplus properties. The property occupied by the tenant was identified as one of two residential properties own by the applicants suitable for sale on the open market within three months of the respondent vacating the property. The applicant served a notice to leave on the respondent seeking vacant possession on or before 30 June 2022. The applicant is heritable proprietor of the property and wants to sell the property.
4. The respondent has not made any representations. It is believed she lives in the property with her children, but we know nothing else of the respondent's circumstances. The respondent will need time to arrange alternative accommodation.
5. The Applicant seeks recovery of possession of the Property in terms of Ground 1 of part 1 of schedule 3 to the 2016 Act. On the facts as we find them to be, the applicant
 - (a) is entitled to sell the let property,
 - (b) intends to sell the property for market value 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.
6. The respondent does not offer opposition to the application. She will need time to find alternative accommodation. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the property, but (in the interests of

the appellant's children) we should allow the applicant 2 months before an order for repossession can be enforced.

Reasons for the Decision

7. The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in Ground 1 of part 1 of schedule 3 to the 2016 Act is established. The respondent offers no defence to the application. It is not unreasonable to grant an order for repossession to be enforced no sooner than 30 January 2023. For these reasons, the Tribunal determined to grant an Order for possession but to delay execution of the order until 30 January 2023.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 1 of part 1 of schedule 3 to the 2016 Act.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

P Doyle

Legal Member

22 November 2022