



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/23/2786

Re: Property at 2 Casselbank Street, Edinburgh, EH6 5HA (“the Property”)

Parties:

Mr Allan Davie Peggie, 1 Veitch's Square, Edinburgh, EH4 1HS (“the Applicant”)

Mr Gregor Meldrum, 2 Casselbank Street, Edinburgh, EH6 5HA (“the Respondent”)

Tribunal Members:

Alastair Houston (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be made in terms of paragraph 1 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016

1. Background

- 1.1 This is an application under Rule 109 of the Chamber Rules whereby the Applicant seeks an order for eviction of the Respondent from the property let on a private residential tenancy. This is on the ground that the Applicant intends to sell the property.
- 1.2 The application was accompanied by copies of the written tenancy agreement between the parties, the notice to leave given to the Respondent and a letter from the Applicant’s agents confirming their instruction in relation to the sale of the property.
- 1.3 A further letter was submitted from the Applicant’s accountant confirming he had wound up his business. No written representations were received from the Respondent.

2. The Case Management Discussion

- 2.1 The Case Management Discussion took place on 9 November 2023 by teleconference. The Applicant was represented by Ms Harrison of Beveridge & Kellas solicitors. The Respondent attended personally.
- 2.2 The Applicant's representative confirmed that the application was insisted upon. The Applicant intended to sell the property, as part of the whole building in which it was located, to fund his retirement. He had previously operated his business from the ground floor of that building and his intention was to sell the building in its entirety once vacant possession had been obtained. He owned one other rental property from which he derived income. The Applicant's representative did not have any other details as to the Applicant's income beyond that he would be entitled to state pension given his age of 68.
- 2.3 The Respondent was 41 years of age and resided alone. He confirmed that he was employed as a chef. His place of work was in Trinity, Edinburgh and was located around 20 minutes by bus from the property. His income was solely derived from his employment and he earned around £11.00 per hour. The rent payable on the property was £360.00 per month. He had been attempting to find alternative accommodation however, had had no success to date. He had contacted private letting agents but had not yet contacted the local authority or applied to any local social housing providers. He had contacted Citizen's Advice and Living Rent for advice and assistance. He required more time to obtain accommodation but was not wanting to cause undue difficulty to the Applicant.
- 2.4 Following a short adjournment to consider matters, the Tribunal granted the order sought by the Applicant.

3. Reasons For Decision

- 3.1 The Applicant had served the requisite notice to leave upon the Respondent. He had provided evidence and information regarding his intention to sell the property. Accordingly, the issue the Tribunal required to consider was whether it was reasonable to grant an order for recovery of possession.
- 3.2 The Tribunal approached the issue of reasonableness in accordance with the case of *Barclay v Hannah* 1947 SC 245 whereby the Tribunal was under a duty to consider the whole facts and circumstances in which the application was made. The Applicant had articulated a reason behind the decision to sell. The Respondent was willing to move from the property, albeit alternative accommodation had not yet been identified. Although the Respondent had not yet been able to obtain alternative accommodation, he had not yet exhausted all options open to him in that he had not yet sought assistance from the local authority nor applied to social housing providers. It was within the Tribunal's knowledge that the local authority would owe duties to the Respondent under the Housing (Scotland) Act 1987 to provide

accommodation, should that become necessary. There was no apparent reason as to why the Respondent's present accommodation was required above any other. The Tribunal noted that the Cost of Living (Tenant Protection) (Scotland) Act 2022 ("the 2022 Act") applied to the present application. Any order could therefore not be enforced prior to 31 March 2024. This ought to provide sufficient time to engage with the local authority and source alternative accommodation.

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.

Alastair Houston

9 November 2023

Legal Member/Chair

Date