



Decision, as reviewed under Rule 39, with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/23/0330

Re: Property at 22 Collins Place, Edinburgh, EH3 5JD (“the Property”)

Parties:

Dr. Benjamin Moss, 39 Redan Street, London, W14 0AB (“the Applicant”)

Mr Thomas Null, 22 Collins Place, Edinburgh, EH3 5JD (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction be granted against the respondent

Introduction

This is an application under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The application seeks an eviction order.

Service of the proceedings and intimation of the Case Management Discussion (CMD) took place upon the respondent by Sheriff Officers on 30 March 2023.

The CMD took place by teleconference on 9 May 2023 at 2.00 pm. The applicant was represented by Ms Rosaleen Doyle of McEwan Fraser. The respondent joined personally and represented his own interests.

Findings and Reasons

Following full discussion at the CMD the respondent consented to an eviction order being made subject to the implementation date being deferred until 30 November 2023.

The property is 22 Collins Place, Edinburgh EH3 5JD. The applicant is Dr Benjamin Moss who is the heritable proprietor of the property and the registered landlord. The respondent is Mr Thomas Null who is the tenant. The parties entered into a private residential tenancy in respect of the property which commenced on 29 January 2019.

The applicant relies upon ground 1 contained within part 1, schedule 3 to the 2016 Act. This specifies that it is an eviction ground where the landlord intends to sell the let property.

The relevant notice period under ground 1 was previously one of 84 days and at the time that the notice to leave was served was one of 6 months. The notice to leave relied upon in the eviction application has been prepared in accordance with the provisions of Section 62 of the Act. The notice to leave relied upon in this case is dated 21 February 2022 and stipulates that the earliest an application be submitted to the tribunal would be 24 August 2022. There is evidence that the notice to leave was served upon the respondent by email communication. The notice to leave, served upon the respondent and relied upon in this application is therefore valid.

In support of the ground of eviction the applicant has produced an affidavit together with email communications with Cullertons Estate Agents which evidences the instructions provided to sell the let property. The tribunal was satisfied on the basis of the credible and reliable evidence produced that it is the applicant's genuine intention to sell the let property.

The tribunal proceeded to consider the issue of reasonableness on the making of an eviction order. The tribunal weighed up the respective circumstances and needs of the parties.

The respondent has some ongoing health issues. In recognition of the respondent's personal circumstances, the applicant has indicated a willingness to contribute to the costs of a moving and packing service up to the sum of £4,000. This is very generous.

The applicant's representative offered an extended period for the respondent to secure alternative accommodation. It was agreed that no eviction would be implemented before 30 November 2023. This is similarly generous.

A relevant section 11 notice has been issued to the relevant local authority. The tribunal was satisfied that the respondent will be provided with alternate accommodation in the event of an eviction order being made against him.

Weighing up the respective circumstances of the parties, the tribunal concluded that it was reasonable to grant the eviction order with the agreed deferred implementation date of 30 November 2023.

The respondent has an informal subletting arrangement which he has evidenced. The subtenant will require to leave the property in line with 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.



Legal Member/Chair

29 May 2023

Date