



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/23/2319

Re: Property at 22b Mossvale Street, Paisley, PA3 2LR (“the Property”)

Parties:

Mr Hendrick Lambrecht, Balvonie House, Halketburn Road, Skelmorlie, PA17 5BP (“the Applicant”)

Mr Robert Traquair, 22b Mossvale Street, Paisley, PA3 2LR (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Ms E Williams (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. This is an application for an eviction order made in the period between 12th July and 29th August 2023 in terms of Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) under ground 1 of Schedule 3 of the Act. The Applicant lodged a copy of the private residential tenancy agreement between the parties, which commenced on 27th September 2021, copy local authority correspondence indicating that the Property is to be purchased and demolished by the local authority, section 11 notice with evidence of service, and copy notice to leave with evidence of service.
2. Notification of the application and the forthcoming Case Management Discussion upon the Respondent was carried out by Sheriff Officers on 3rd November 2023.

The Case Management Discussion

3. A Case Management Discussion (“CMD”) took place by telephone conference on 14th December 2023. Neither party was in attendance. Mrs Janette McLelland was in attendance on behalf of the Applicant.
4. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
5. Mrs McLelland said the Respondent has accepted the tenancy of a local authority property. The Respondent has keys for the new property, and a member of Mrs McLelland’s family has visited the new property. The Respondent has told Mrs McLelland that he will move out of the Property in mid-January 2024. The Respondent’s rent has been paid to 5th December 2023, but no further rent is expected. His council tax is no longer being paid at the Property. The Respondent is in receipt of benefits.
6. Mrs McLelland said the Property is due for demolition by the local authority in or around April 2024. The Respondent has been aware of the demolition plans for 15 months. Responding to questions from the Tribunal, Mrs McLelland said the Respondent lives alone in the Property.
7. There was some discussion about the options open to the Tribunal, particularly whether to consider continuing to a further CMD or whether to grant an order. Mrs McLelland moved the Tribunal to grant an eviction order as this would give some comfort that the Respondent will move out, rather than remain in the Property when he has been allocated a new tenancy. Mrs McLelland said she was aware that an eviction order under ground 1 was subject to the current moratorium on evictions..

Findings in Fact and Law

8.
 - (i) Parties entered into a private residential tenancy agreement in respect of the Property that commenced on 27th September 2021.
 - (ii) Notice to Leave has been served upon the Respondent.
 - (iii) The Applicant is entitled to sell the Property.
 - (iv) The Applicant intends to sell the let property for market value, or at least put it up for sale, within 3 months of the Respondent ceasing to occupy the Property.
 - (v) The Property is due to be demolished by the local authority in or around April 2024.
 - (vi) It is reasonable to grant an eviction order.

Reasons for Decision

9. Ground 1 of Schedule 3 of the Act provides that it is an eviction ground if the landlord intends to sell the let property. The Tribunal may find the ground met if the landlord is entitled to sell the property and intends to do so for market value, or at least put it up for sale within three months of the tenants ceasing to occupy it. The Tribunal accepted that the Applicant intends to sell the Property to the local authority, as required by the legislation. The Tribunal was satisfied that Ground 1 had been established.
10. The Tribunal is satisfied that the necessary Notice to Leave has been correctly issued to the Respondent in terms of the Act. The requisite section 11 Notice has been served upon the local authority.
11. In considering whether it was reasonable to grant the eviction order, the Tribunal took into account the representations made on behalf of the Applicant. The Property is due to be demolished by the local authority in or around April 2024. Although there was no documentary evidence before the Tribunal regarding the Respondent's new tenancy, the Tribunal accepted the evidence of Mrs McLelland that a member of her family had visited the new property and ascertained that the Respondent has a new tenancy, but has not yet moved out of the Property.
12. The Tribunal considered carefully the reasonableness of granting an order in these circumstances. The Tribunal considered, on balance, that it was reasonable to grant an eviction order, given that the Respondent may be delaying moving from the Property, and that he may no longer be in a position to pay any further rent. It was unfortunate that the Respondent did not attend the CMD to put forward any defence or confirm the position stated on behalf of the Applicant.

Decision

13. An eviction order in respect of the Property is granted.

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.

H Forbes

Legal Member/Chair

14th December 2023
Date