



Decision 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/23/2510

Re: Property at Marnoch, Barchain Farm, Buittle, Castle Douglas, DG7 1NN (“the Property”)

Parties:

Mr Andrew Sturgess, 27 Dalkeith Avenue, Glasgow, G41 5LF (“the Applicant”)

Ms Evaline Henderson, Marnoch, Barchain Farm, Buittle, Castle Douglas, DG7 1NN (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber with an email dated 26th July 2023. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on grounds 1 of the Private Housing (Tenancies) (Scotland) Act 2016, namely that the Applicant wishes to sell the Property.
2. On 23rd October 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 30th November 2023 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 13th November 2023.

3. On 25th October 2023, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 25th October 2023.
4. On 16th November 2023, the Respondent's representative, Ms Doreen Beattie D&G Citizens Advice Service, emailed the Housing and Property Chamber with a submission. The submission raised several points regarding the tenancy which included the breakdown of the relationship between the Applicant and the Respondent. It noted that the Respondent was not opposing an order being granted as she wished to leave the Property for reasons explained in the submission.

The Case Management Discussion

5. A CMD was held on 30th November 2023 at 2pm by teleconferencing. The Applicant was present and was represented by Mr Kenneth McLean, Partner, Pollock & McLean. The Respondent was not present but was represented by Ms Doreen Beattie, In-Court Coordinator, D&G Citizens Advice Service.
6. Mr McLean told the Tribunal that the Applicant's position remains that he wishes to sell the Property. He noted that the Respondent's submission states that she does not oppose the granting of an order.
7. Ms Beattie said that the Respondent did not oppose the granting of an order. She has presented to her local authority homeless unit but will not be assessed until an order has been granted. An appointment has been made for her in early December to allow her to progress her application if the Tribunal grants an order for eviction. It was noted that any order would not be able to be enforced before 31st March 2024 under the Cost of Living (Tenants Protection)(Scotland) Act 2022. The Respondent can leave at any time but must give the appropriate notice to the Applicant or his representative.
8. The Tribunal wished more information as to why the Property was valued at a much higher price than it was being sold for. Mr McLean assured the Tribunal that this was a genuine wish by the Applicant to sell the Property. It is a unique property as it is on its own on a single track road. It cannot be compared easily to other Properties. Ms Beattie also told the Tribunal that it was the Respondent's understanding that the Applicant's daughter and son in law are to purchase the Property which may explain the difference with the valuation and the offered price. The Respondent does believe that the sale is a genuine sale and that it will proceed. The Tribunal was satisfied with that explanation.
9. The Tribunal was satisfied that it was reasonable to grant an order for eviction.

Findings and reason for decision

10. A Private Rented Tenancy Agreement commenced 28th April 2019.

11. The Applicant wishes to sell the Property. His daughter and son in law have made an offer to purchase it from him.
12. The Respondent is not opposing an order being granted.
13. There are no issues of reasonableness to prevent an order for eviction being granted.

Decision

14. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicant.

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.

G Miller

30th November 2023

Legal Member/Chair

Date