



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/23/2710

Property : 44 Langton Road, Glasgow G53 5DD (“Property”)

Parties:

John Douglas, 107 Langside Drive, Glasgow G42 (“Applicant”)

Lemon Property, 272 Bath Street, Glasgow G2 4JR (“Applicant’s Representative”)

Stewart Mullen, 44 Langton Road, Glasgow G53 5DD (“Respondent”)

Govan Law Centre, 18-20 Orkney Street, Glasgow G51 2BZ (“Respondent’s Representative”)

Tribunal Members:

Joan Devine (Legal Member)

Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined to make an order for possession of the Property.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Private Residential Tenancy Agreement dated 24 January 2018; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 6 April 2023 ("Notice to Leave"); Royal Mail proof of delivery on 8 April 2023; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 8 August 2023; copy letter from Select Surveyors dated 22 March 2023 advising they could prepare a home report as soon as entry was available; Home Report for the Property dated 26 October 2023 and sheriff officer's execution of service certifying service of the Application on 19 October 2023.

Case Management Discussion

A case management discussion (“CMD”) took place before the Tribunal on 23 November 2023 by teleconference. Alison Wright of the Applicant’s Representative was in attendance as was Laura Simpson of the Respondent’s Representative.

Ms Wright told the Tribunal that the Property had belonged to the Applicant’s parents. It is the only property which he rents out. She said that he is aged over 70 and wishes to sell the Property as he is struggling financially. She said the mortgage on the Property has increased. The Tribunal noted that the mortgage had increased from £105 / month in 2022 to £336 / month in 2023. Ms Wright said that the Respondent had occupied the Property since 2016, a new tenancy agreement having been put in place in 2018. She said that the Respondent lives in the Property alone although he has a grown up daughter. She said that she had explained to the Respondent why the Applicant wished to sell the Property. She said she had offered alternative accommodation to the Respondent which he did not wish to take up.

Ms Simpson told the Tribunal that the Respondent does not oppose the grant of an order for possession of the Property. She said that the Respondent is aged 55, he is not working, he has certain health conditions and is in receipt of personal independence payment and other disability benefits. She said that the Respondent has applied for local authority housing and hoped to achieve more secure accommodation with a housing association. She said that if an order was granted the Respondent would make a homeless application.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Private Residential Tenancy Agreement for the Property dated 24 January 2018.
2. A Notice to Leave was served on the Respondent by recorded delivery post on 8 April 2023. It stated that an application for an eviction order would not be submitted to the Tribunal before 3 July 2023.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 8 August 2023.
4. The Applicant holds title to the Property and is entitled to sell the Property.
5. The Applicant intends to sell the Property or at least put it up for sale within 3 months of the Respondent ceasing to occupy it.

Reasons for the Decision

In terms of section 51 of the Act, the First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

In the Application the Applicant stated that he sought recovery of possession of the Property on the basis set out in Ground 1 which is that the landlord intends to sell. The evidence lodged with the application of intention to sell was a copy of a letter from Select Surveyors dated 22 March 2023 advising they could prepare a home report as soon as entry was available and a Home Report for the Property dated 26 October 2023. The Tribunal considered the evidence provided and determined that the ground for eviction had been established. The Tribunal considered the oral representations of the Applicant's Representative and the Respondent's Representative and determined that it was reasonable to grant an order for eviction.

Decision

The Tribunal determined to grant an order for possession of the Property.

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.

**Joan Devine
Legal Member**

Date: 23 November 2023