



The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) in respect of an application under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of the Rules

Chamber Ref: FTS/HPC/EV/23/1486

Re: Property at 7 Peebles Road, Walkerburn, EH43 6AY (“the Property”)

Parties:

Mr Calum Parker, Elmlee, Kingston Road, Thornbury, BS35 1PG (“the Applicant”) per his agents Accommodate Rural, 18 Northgate, Peebles, EH45 8RS (the Applicant’s Agents”)

Mr Stephen Woodcock, 7 Peebles Road, Walkerburn, EH43 6AY (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Mary Lyden (Ordinary Member)

Background

1. By application received between 10 May 2023 and 12 July 2023 (“the Application”), the Applicant’s Agents applied to the Tribunal for an Order for eviction and possession of the Property based on Ground 1 of Schedule 3 to the 2016 Act.
2. The Application comprised the following:
 - i) copy Notice to Leave in terms of Grounds 1, the landlord intends to sell the Property, of Schedule 3 to the Act;
 - ii) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Scottish Borders Council being the relevant local authority and
 - iii) copy email confirming instructions to sell the Property when vacant possession is obtained and copy correspondence between the Parties.

CMD

3. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (the “CMD”) was fixed for 12 October 2023 by telephone conference. The outcome of the CMD was that it was continued to a further CMD for the Applicant to

lodge a copy of the tenancy agreements between the Parties and for the Parties to submit impact statements.

4. The Applicant's Agents lodged the tenancy agreements, being a short assured agreement and a private residential agreement, and both Parties submitted impact statements.

Adjourned CMD

5. The adjourned CMD took place on 16 January 2024 at 10.00. The Applicant was not present and was represented by Ms. S. Hamilton of the Applicant's Agents. The Respondent, Mr. Woodcock was present and was unrepresented.
6. Ms. Hamilton for the Applicant confirmed that the Order is sought.
7. Mr. Woodcock advised that he no longer opposes the Application as he has secured alternative accommodation.

Findings in Fact

8. From the Application and the CMDs, the Tribunal made the following findings in fact:
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 - i) There is a private residential tenancy of the Property between the Parties;
 - ii) The Applicant requires to sell the Property to release funds from his investment;
 - iii) The Applicant intends to sell the Property and has instructed selling agents;
 - iv) The correct statutory procedures have been carried out;
 - v) and
 - vi) The Respondent does not oppose the Application and has secured alternative accommodation.

Issue for the Tribunal

9. The issue for the Tribunal was to determine whether or not to grant the Order sought. The Ground on which the Application proceeds is Ground 1 which states *"It is an eviction ground that the landlord intends to sell the let property. (2)The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord (a)is entitled to sell the let property, (b)intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it and (c)the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts."*
10. The statutory ground and procedure being established, the issue for the Tribunal was to determine if it is reasonable to grant the Order. The Tribunal took the view that it had sufficient information to make a decision on reasonableness and so proceeded to determine the Application.

Decision and Reasons for Decision

11. The Tribunal had regard to all the information before it and to its Findings in Fact.

12. The Tribunal then considered if it could be satisfied it is reasonable to issue an eviction order on account of those facts and on all of the information before it.
13. The Tribunal had regard to the facts that the Applicant requires to sell the Property with vacant possession to do so. The Tribunal had regard to the facts that the Respondent does not oppose the Application and has secured alternative accommodation and took the view that the homelessness legislation provides a safety. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction Order.
14. This decision is unanimous.

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

16 January 2024
Date