



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/23/2279

Re: Property at Flat 0/2, 96 Calder Street, Glasgow, G42 7RB (“the Property”)

Parties:

Mrs Harpreet Gill, 6 Fernleigh Rd, Glasgow, G43 2UE (“the Applicant”) per her agents The Eviction Helpline, 559, Lawmoor Street, Glasgow, G5 0TT (“the Applicant’s Agents”)

Mr Calin Andras and Mrs Doama Suneta Andras, Flat 0/2, 96 Calder Street, Glasgow, G42 7RB (“the Respondents”)

Tribunal Members:

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

Decision (in absence of the Respondents)

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

Background

1. By application received between 10 July 2023 and 5 October 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 private residential tenancy agreement between the Parties;
 - ii) copy Notice to Leave in terms of Grounds 1, the landlord intends to sell the Property, of Schedule 3 to the Act;
 - iii) copy Notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 to Glasgow City Council being the relevant local authority
 - iv) copy email correspondence from the Applicant confirming her need to sell the Property for financial reasons and
 - v) copy email confirming instructions to sell the Property when vacant possession is obtained.

3. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (the "CMD") was fixed for 16 January 2024 at 14.00. by telephone conference. The CMD was intimated to the Parties and, in particular, to the Respondents by Sheriff Officer service on 22 November 2023.

CMD

4. The CMD took place on 16 January 2024 at 14.00. The Applicant was not present and was represented by Mr. M. Ullah of the Applicant's Agents. The Respondents were not present and were not represented.
5. Ms. Ullah for the Applicant confirmed that the Order is sought. Mr. Ullah advised that he did not have a lot of information on the Respondents but understood that they are a married couple with no children and that they are actively seeking alternative accommodation. In respect of the Applicant, she continues to require to sell the Property to release funds.

Findings in Fact

- 6 From the Application and the CMDs, the Tribunal made the following findings in fact:
 - i) There is a private residential tenancy of the Property between the Parties;
 - ii) The Applicant requires to sell the Property as her mortgage payments have increased;
 - iii) The Applicant intends to sell the Property and has instructed selling agents;
 - iv) The correct statutory procedures have been carried out;
and
 - v) There is no information to show that the Respondents are at risk.

Issue for the Tribunal

- 7 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.*"
- 8 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

- 9 The Tribunal had regard to all the information before it and to its Findings in Fact.
- 10 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.

11 The Tribunal had regard to the facts that the Applicant's mortgage payments have increased and that the Applicant requires to sell the Property with vacant possession to do so. The Tribunal had regard to the Respondents' circumstances and took the view that the homelessness legislation provides a safety net for them. Further, the effect of the Cost of Living (Tenant Protection) (Scotland) Act 2022 is such that any Order cannot be enforced until 31 March 2024 and so the Respondents have a significant period of time to secure housing. Accordingly, the Tribunal was satisfied that it is reasonable to issue an eviction Order.

12 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.

Karen Moore

Legal Member/Chair

16 January 2024
Date