



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section**

Chamber Ref: FTS/HPC/EV/23/2556

Re: Property at 18 Portpatrick Terrace, Monifieth, DD5 4TU (“the Property”)

Parties:

Mr Anthony Craven, 40 Wemyss Crescent, Monifieth, DD5 4RA (“the Applicant”)

Miss Claire Bryce, Mr Stuart Galbraith, 18 Portpatrick Terrace, Monifieth, DD5 4TU; 43 St Vincent Court, 131 St Vincent Street, Broughty Ferry, Dundee, DD5 2DA (“the Respondents”)

Tribunal Members:

Richard Mill (Legal Member) and Mary Lyden (Ordinary Member)

Decision

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

Introduction

This is an application under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The application seeks an eviction order.

Service of the proceedings and intimation of the Case Management Discussion (CMD) took place upon the respondents by Sheriff Officers on 9 and 14 November 2023.

The CMD took place by teleconference on 20 December 2023 at 10.00 am. The applicant was represented by Mr Greg Gardiner of Easylets. The respondents joined the hearing personally and represented her own interests.

Findings and Reasons

The property is 18 Portpatrick Terrace, Monifieth DD5 4TU. The applicant is Mr Anthony Craven who is the heritable proprietor and registered landlord of the property. The respondents are Ms Claire Bryce and Mr Stuart Galbraith who are the tenants. The parties entered into a private residential tenancy which commenced on 18 October 2019. The rent was stipulated at £900 per month.

The applicant relies upon ground 1 contained within part 1, schedule 3 to the 2016 Act. This specifies that it is an eviction ground where the landlord intends to sell the let property.

The notice to leave is dated 18 April 2023. It stipulated that an application would not be submitted to the tribunal for an eviction order before 14 July 2023. The relevant notice period at the time that the notice to leave was served was one of 84 days.

In accordance with section 62 of the Act, an additional two days for deemed service requires to be added to the 84 days, together with one additional day. The notice to leave was served by email on 18 April 2023. The two day period for deemed service is rebuttable and is not required due to the notice having been served by email on the date that it is dated. Adequate notice was given in the notice to leave and it is valid.

In support of the ground for eviction the applicant has produced a copy of a terms of engagement letter dated 28 August 2023 with Thorntons Solicitors regarding the proposed sale of the property. He is near retirement age. He used to live in the property and it was never intended that he act as a commercial landlord. The costs of managing and maintaining the property have risen significantly.

The tribunal was satisfied that it is the applicant's genuine intention to sell the let property.

The tribunal proceeded to consider the issue of reasonableness on the making of an eviction order. The tribunal weighed up the respective circumstances and needs of the parties.

The first respondent is 44 years of age. She is employed on a full time basis. She lives with her three children aged 20, 19 and 14. She has no disabilities or other vulnerabilities. She has made enquiries with both Dundee and Angus Councils

The second respondent vacated the property in or about May 2023. The making of an eviction order will have no impact upon him.

The respondents have been good tenants and there are no rent arrears.

A relevant section 11 notice has been issued to the relevant local authority. The tribunal was satisfied that the first respondent will be provided with alternate accommodation in the event of an eviction order being made against them.

Weighing up the respective circumstances of the parties, the tribunal concluded that it was reasonable to grant the eviction order. The additional protections in place due to the Cost of Living (Tenant Protection) (Scotland) Act 2022 mean that no eviction can take place before 31 March 2024.

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.

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Legal Member/Chair

20 December 2023

Date