



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)

Chamber Ref: FTS/HPC/EV/23/2849

Re: Property at 7 Craighdu Avenue, Airdrie, ML6 8EN (“the Property”)

Parties:

Mrs Donna Tennent, 33 Moorcroft Drive, Airdrie, ML6 8ES (“the Applicant”)

Miss Natasha Christie, Mr Umar Farooq, 7 Craighdu Avenue, Airdrie, ML6 8EN (“the Respondents”)

Tribunal Members:

Virgil Crawford (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

BACKGROUND

1. By lease dated 29th September 2021 the Applicant let the Property to the Respondent.
2. On 24th May 2023 the Applicant served a notice to leave upon the Respondent on the grounds the Applicant wished to sell the Property to alleviate financial hardship.
3. A notice in terms of s11 of the Homelessness Etc. (Scotland) act 2003 to the local authority.
4. While the lease details Natasha Christie and Umar Farooq as tenants, Mr Farooq no longer resides at the property and vacated it a significant period of time ago.

THE CASE MANAGEMENT DISCUSSION

5. Both parties participated personally in the Case Management Discussion.

The Applicant

6. The Applicant moved the Tribunal to grant an order for eviction pointing out that she could no longer financially sustain the Property. Due to increasing costs the rental income from the Property no longer covered the outgoings and she did not have sufficient savings nor income to continually make up the difference. If she is unable to sell the Property it is likely she will default on her mortgage payments.
7. The rental income from the Property is presently £600.00 per month. The monthly mortgage payment required is now £767.41. In April 2023, due to increasing interest rates, the mortgage increased to £655.63. In July 2023 it increased to £716.45. In October 2023 it increased to £767.41. The intention of the Applicant is to sell the Property once vacant possession is obtained.
8. The Applicant pointed out to the tribunal that she has done everything she could to avoid this situation. She advised that she had even contacted North Lanarkshire Council in relation to their "Buy back scheme" – a scheme whereby the local authority would purchase privately owned properties with a view to the local authority thereafter using them for social housing purposes. The Applicant, however, did not qualify for that scheme as the Property is not an ex local authority property in the first place.
9. The Applicant has no other rental Properties. The current situation is causing the Applicant significant anxiety.

The Respondent

10. The Respondent, Natasha Christie, advised that she resides at the Property alone. She is a student nurse. She has exams she requires to undertake in April and thereafter a period of on-site placement. The placement period, however, still forms part of the assessment process for her examination.
11. The possibility of becoming homeless is a concern for the Respondent. She has been in contact with the local authority and housing associations with a view to securing alternative accommodation.
12. While Miss Christie understood, and did not dispute the basis upon which the Applicant was making the application to the Tribunal, she was keen not to have her studies interrupted nor disturbed if that could be avoided.

Discussion

13. As there was no dispute between the Parties in relation to the factual position the Tribunal did not consider it necessary to fix a Hearing. The issue for the Tribunal is whether it is reasonable to grant an eviction order.
14. The Tribunal considered the competing positions of the Parties. The Tribunal considered that, in relation to reasonableness, given the position of the Applicant, and in particular the fact the mortgage was now approximately £180.00 per month more than the rental income, the fact the Applicant does not have any savings to rely upon and does not have sufficient income to sustain such a shortfall on a monthly basis, it was reasonable that an order for eviction be granted.
15. In reaching that conclusion the tribunal did have regard to the personal situation of the Respondent and her status as a student nurse. In the circumstances, however, the Tribunal considered that the issue of reasonableness fell to be determined in favour of the Applicant.
16. The Tribunal did consider the possibility of granting an eviction order but deferring the date of enforcement until after the Respondent had completed her studies. Having regard to the financial situation in which the Applicant finds herself, however, the Tribunal concluded that it would not be appropriate, particularly having regard to the suggestion that the Applicant may default on her mortgage in the near future.

FINDINGS IN FACT

17. The tribunal found the following facts to be established; -
 - a) By lease dated 29th September 2021 the Applicant let the Property to the Respondent.
 - b) On 24th May 2023 the Applicant served a notice to leave upon the Respondent on the grounds the Applicant wished to sell the Property to alleviate financial hardship.
 - c) A notice in terms of s11 of the Homelessness Etc. (Scotland) act 2003 to the local authority.
 - d) The rent received by the Applicant is £600.00 per month.
 - e) The mortgage payments made by the Applicant are £767.41 per month.
 - f) The Applicant does not have sufficient income nor savings to cover this shortfall on an ongoing basis.
 - g) The Applicant is suffering financial hardship as a result.
 - h) The Applicant wishes to sell the Property to alleviate financial hardship.
 - i) It is reasonable in the circumstances that an order for eviction be granted.

DECISION

The Tribunal granted an order against the Respondents for eviction of the Respondents from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1A of Schedule 3 of said Act

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

V. Crawford

19 January 2024

Legal Member/Chair

Date