



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 and Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”)

Chamber Ref: FTS/HPC/EV/23/3344

Re: Property at Flat 1 15 Colonsay Close, Edinburgh, EH5 1BT (“the Property”)

Parties:

ASL Property, Rosemount Cottage, Braeface Road, Banknock, FK4 1UE (“the Applicant”)

MacNabs LLP, 10 Barossa Place, Perth, PH1 5JX

Moira Robertson and Shawn Harris, Flat 1 15 Colonsay Close, Edinburgh, EH5 1BT (“the Respondent”)

Tribunal Members:

**Ms. Susanne Tanner K.C. (Legal Member)
Mrs. Helen Barclay (Ordinary Member)**

Decision

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

(1) was satisfied that Ground 1 in Schedule 3, Part 1 to the 2016 Act was established by the Applicant, in that on the day the tribunal considered the application for an eviction on its merits: the Landlord intends to sell the Let Property for market value or at least put it up for sale within three months of the Respondents seeking to occupy it; and that it was reasonable to make an eviction order on account of those facts; and made an order for eviction in terms of Section 51 of the 2016 Act;

(2) The decision of the tribunal was unanimous.

Statement of Reasons

Procedural Background

1. The Applicant's Representative made an application to the tribunal on 21 September 2023 in terms of Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act") and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 ("the 2017 Rules").
2. The Applicant provided the following documents in support of the amended Application:
 - 2.1. Private Residential Tenancy Agreement;
 - 2.2. Copy Notice to leave with evidence of service which pre-dated the notice; and
 - 2.3. Section 11 Notice, with evidence of service.
 - 2.4. Affidavit of Mrs Lisa Campbell.
3. The tribunal's administration obtained a copy of the Title Sheet for the Property which showed the registered proprietor from 20 January 2009 as Stephen Donachy, Nettles Cottage, Allandale, Bonnybridge.
4. Further information was requested by the tribunal from the Applicant's Representative and provided, in an amended bundle of supporting documents, including:
 - 4.1. Evidence of service of the notice to leave on 25 March 2023; and
 - 4.2. Evidence of Title and interest and consent from the registered proprietor of the Property to rental of the property through ASL Property, a partnership.
5. The application was accepted on 16 November 2023 and the tribunal sent letters of notification to all parties with the date, time and arrangements for joining the Case Management Discussion ("CMD") in relation to the Application.

CMD: 13 February 2024, 1000h, Teleconference

6. The Applicant's Representative attended on behalf of the Applicant.
7. The first Respondent, Ms Moira Robertson, attended on behalf of herself and the second Respondent.

Submissions on behalf of the applicant

8. The Applicant's Representative seeks the Respondents' eviction from the Property under Ground 1 of Schedule 3 of the 2016 Act, on the basis that the partnership which lets the Property on behalf of the registered proprietor and with his consent intends to sell the property or at least put it up for sale within three months of the tenant ceasing to occupy it.
9. A Notice to Leave dated 24 March 2023 was sent to the Respondents on 25 March 2023, seeking their eviction on Ground 1, namely that the landlord has decided to sell the Property.
10. The Application to the tribunal was made on 21 September 2023.
11. The Applicant's Representative submitted that it would be reasonable for the tribunal to evict the Respondents and stated the following:
 - 11.1. It is almost a year since notice was properly given to the tenants;
 - 11.2. The applicant gave a clear reason under the legislation that they wish to sell the Property once they have vacant possession;
 - 11.3. She understands that the tenants have been in contact with the council about the prospect of being re-housed and that the tenants need an eviction order to progress their own application for being re-housed;
 - 11.4. Because of the current ban on enforcing eviction orders, the soonest any eviction could take place would be the beginning of April 2024, which is more than a year's notice of the applicant's intention to recover the property, which she submitted was sufficient notice to allow them to make arrangements; and
 - 11.5. She understands that Mr Harris is in employment and that the family are in receipt of some Universal Credit. She accept that there is at least one dependent in the household.

First Respondent's submissions

12. The First Respondent stated that the Respondents wants the tribunal to make the eviction order. The family wishes to leave the Property and they need an eviction order to get alternative housing from the local authority. She stated that there are repairs issues with the Property and that the landlord has delayed in dealing with repairs and upgrades. She stated that there are three children living in the Property, two of whom are dependent. She asked the tribunal to make the eviction order as soon as possible.

13. The tribunal makes the following findings-in-fact:

- 13.1. The Applicant partnership has the consent of the registered proprietor to let the Property under a private residential tenancy.
- 13.2. There is a private residential tenancy agreement between the Applicant and the Respondents for the Property.
- 13.3. The start date of the tenancy was 12 October 2020.
- 13.4. On 25 March 2023, a Notice to Leave containing ground 1 of Schedule 3 to the 2016 Act was served on the Respondents.
- 13.5. The Applicant has given the Respondent at least 84 days' notice that she requires possession.
- 13.6. The Application to the tribunal was made on 21 September 2023.
- 13.7. The partners of the partnership intend to sell their respective investment property interests, including the Property.
- 13.8. The Respondents wish to move out of the Property and require an eviction order in relation to their application for local authority housing.

14. Findings in fact and law

- 14.1. The tribunal is satisfied that the facts required in paragraph 1 of Schedule 3 to the 2016 Act have been established.
- 14.2. The tribunal is satisfied that it is reasonable to make an order for eviction.

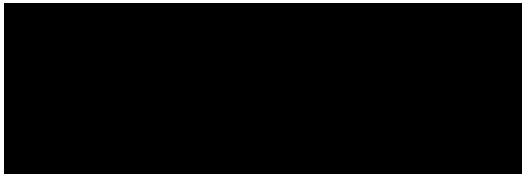
Discussion

15. The order for eviction is sought in terms of Section 51 and paragraph 1 of Schedule 3 to the 2016 Act. The tribunal was satisfied that the requirements of those provisions have been met.

16. In relation to reasonableness, reference is made to the tribunal's findings in fact. In particular, although the Property is their family home, the Respondents wish to leave the Property and have requested that the tribunal issue the eviction order.
17. The tribunal was satisfied that it was reasonable to evict the Respondents in the circumstances of the case.

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.



13 February 2024

**Ms. Susanne L. M. Tanner K.C.
Legal Member/Chair**