



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/23/3485

Re: Property at 78 Stock Avenue, Paisley, PA2 6AS (“the Property”)

Parties:

Mrs Jean Murray, 54 Thorndene, Elderslie, Johnstone, PA5 9DB (“the Applicant”)

Mr Scott Anderson, 78 Stock Avenue, Paisley, PA2 6AS (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for the eviction of the Respondent from the property.

Background

1. By application dated 28 September 2023 the Applicant applied to the Tribunal for an order for the eviction of the Respondent from the property. The Applicant submitted a copy of the tenancy agreement together with a Notice to Leave, Letter from Estate Agents, correspondence with the Respondent, Section 11 Notice and proof of intimation to Renfrewshire Council in support of the application.
2. By Notice of Acceptance dated 22 November 2023 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 30 November 2023.

4. By email dated 14 December 2023 Campbell & McCartney, Solicitors, Glasgow advised the Tribunal that they may be instructed by the Respondent and requested an extension of time for submitting written representations.
5. By email dated 4 January 2024 the Applicant advised the Tribunal she had instructed Harper Macleod, Solicitors, Glasgow to represent her.
6. By email dated 17 January 2024 the Respondent submitted written representations to the Tribunal.

The Case Management Discussion

7. A CMD was held by teleconference on 24 January 2024. The Applicant was represented by Mr Stephen Nicolson. The Respondent attended in person.
8. The Tribunal confirmed with the Respondent that he had been a tenant at the property since February 2020 and had entered into the current agreement on 1 August 2022. The Respondent agreed he had been served with a Notice to Leave under Ground 1 of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) in June 2023 and that it had said that proceedings would not be raised before 2 September 2023.
9. For the Applicant Mr Nicolson confirmed that Renfrewshire Council had been given intimation of the proceedings by way of a Section 11 Notice on 28 September 2023.
10. The Respondent referred to his written representations and suggested that the correspondence from Slater Hogg and Howison was insufficient to show that it was the Applicant’s intention to actually sell the property as the Applicant had previously sought to increase the rent for the property. The Respondent suggested that if the order was granted the Applicant might re-let the property for a higher rent. The Respondent also submitted that the property was barely habitable due to water ingress and sewage ingress and problems with heating and the water supply. Nevertheless, he said he wished to continue to live in the property as he was his father’s carer and he wished to continue to live near to his father.
11. For the Applicant Mr Nicolson submitted that the Respondent’s written representations had been late and that apart from making scandalous accusations about the Applicant had offered no evidence to support the claims. Mr Nicolson went on to confirm that the Applicant was in her eighties and that the property was her only let property. He explained that the Applicant no longer wished to be a landlord and that she had been assisted in the past by her husband who was suffering from bladder cancer. Mr Nicolson explained that although the Applicant’s husband was receiving treatment for

his condition the additional strain of dealing with the property was not good for his health.

12. The Respondent advised the Tribunal that he shared the property with a flat-mate who was now sleeping in the living room as the second bedroom was no longer habitable due to water and sewage ingress.
13. The Respondent explained that he was his father's carer and was in receipt of Attendance Allowance and Universal Credit including housing element of about £200.00 per month.

Findings in Fact

14. The Respondent has been a tenant in the property since February 2020.
15. The current Private Residential Tenancy Agreement commenced on 1 August 2022 at a rent of £500.00 per calendar month.
16. The Applicant is in her eighties and no longer wishes to be a landlord.
17. The Applicant's husband is being treated for bladder cancer.
18. The Applicant wishes to sell the property and has instructed Slater Hogg and Howison, Paisley to act in the sale of the property.
19. The Respondent has been served with a Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act.
20. Renfrewshire Council have been given notice of the proceedings by way of a Section 11 Notice dated 28 September 2023.
21. The Respondent is a carer for his father and lives in the same area.
22. The Respondent shares the property with a flat-mate.
23. There have been issues of water and sewage ingress at the property with repairs outstanding.
24. The Respondent wishes to remain in the property.

Reasons for Decision

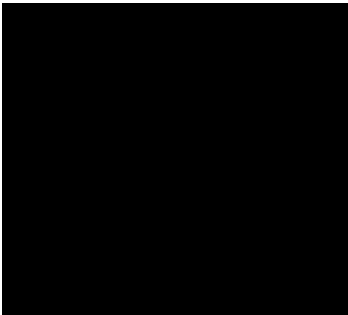
25. The Tribunal was satisfied from the written representations, documents and oral submissions that the parties entered into a Private Residential tenancy that commenced on 1 August 2022 although the Respondent had been a tenant at the property since February 2020.
26. The Tribunal was also satisfied that the Respondent had been properly served with a valid Notice to Leave under Ground 1 of Schedule 3 of the 2016 Act and that proper intimation of the proceedings had been given to the Local Authority by way of a Section 11 Notice.
27. The Tribunal had to be satisfied that it was reasonable in all the circumstances to grant the order sought. In reaching its decision the Tribunal took account of the age of the Applicant and the fact that her husband was suffering from a serious illness. The Tribunal accepted that the additional strain of managing the property was having an adverse effect on the Applicant and her husband and that the Applicant now wished to sell the property rather than continue to be a landlord. The Tribunal accepted that notwithstanding the problems the Respondent was experiencing with the condition of the property that he wished to remain in it in order to be close to his father. However, the Tribunal was surprised that the Respondent having been served with a Notice to Leave in June 2023 had apparently made no effort to find other accommodation and had not been in contact with the Homeless Service at Renfrewshire Council despite a Section 11 notice having been sent to them.
28. After taking both parties circumstances into account the Tribunal considered that the needs of the Applicant outweighed those of the Respondent. The Tribunal was satisfied that it was reasonable to grant the order sought which would be subject to the Cost of Living (Tenant Protection) (Scotland) Act 2022 and therefore the earliest any order would come into force would be after 31 March 2024 and this would give the Respondent time to find alternative accommodation in the area and to obtain assistance from the Local Authority.

Decision

29. The Tribunal finds the applicant entitled to an order for the eviction of the Respondent from the property under Ground 1 of Schedule 3 of the 2016 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.



Legal Member/Chair

24 January 2024
Date