



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

Chamber Ref: FTS/HPC/EV/23/3767

Re: Property at 9 West Pilton Road, Edinburgh, EH4 4GX (“the Property”)

Parties:

Bank of Scotland PLC, The Mound, Edinburgh, EH1 1YZ (“the Applicant”)

Mrs Karin Paterson, Craig Paterson, Chelsea Paterson, Aran Paterson, Demi Paterson, 9 West Pilton Road, Edinburgh, EH4 4GX (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order.

Background

[1] The Applicant seeks an Eviction Order under ground 2 of Schedule 3 of the Act. The Application is accompanied by: a copy of the relevant notice to leave with proof of service; a copy of the calling up notice and extract decree obtained from Edinburgh Sheriff Court; the relevant notice to occupier served after the granting of the decree and the relevant notice under s11 of the Homelessness (Etc) (Scotland) Act 2003.

The Case Management Discussion

[2] The Application called for a Case Management Discussion (CMD) by conference call at 2pm on 1 February 2024. The Applicant was represented by Ms Masters. The First Respondent, Karin Paterson was present and confirmed that she was representing the other Respondents who were her family members. The Tribunal discussed the Respondents' situation carefully with Ms Paterson to ensure the Tribunal knew as much about her domestic situation as possible. Ms Paterson was not actively opposing the Application but was anxious about what the future might hold.

Findings in Fact

[3] Having heard from Ms Masters and Ms Paterson, the Tribunal made the following findings in fact,

- I. *The Applicant competently served a notice to leave on the Respondents in terms of ground 2 of Schedule 3 of the Act;*
- II. *The Applicant had obtained a warrant from Edinburgh Sheriff Court to sell the Property under Section 24 (1B) of the Conveyancing and Feudal Reform (Scotland) Act 1970 as a result of the original landlord defaulting on his obligations to the Applicant, who were his heritable creditor.*
- III. *The Applicant has complied with Section 11 of the Homelessness (Etc) (Scotland) Act 2003;*
- IV. *The Applicant intends to sell the Property and the ground relied upon is established;*
- V. *The Respondents are a family who have lived in the Property since December 2018. The children of the family are adults. Certain family members have health issues;*
- VI. *The Respondents are nervous about having to move house but are accepting that it might actually improve their situation as they do not consider that the area they live in currently is completely safe;*
- VII. *The Respondents have made contact with the housing department of the relevant local authority and are seeking support;*

Reasons for Decision

[4] Having made the above findings in fact, the Tribunal considered that the ground was established and that it was reasonable to make an eviction order. In assessing that it was reasonable to make an Eviction Order, the Tribunal noted that the Respondents were not actively opposing the order sought. They were understandably anxious, but appeared already to be contemplating their next move as a family. The Tribunal considered that it was likely that the Respondents would be re-accommodated by the local authority with a degree of priority given their health issues and domestic circumstances.

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

1 February 2024

Date