



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

Chamber Ref: FTS/HPC/EV/23/2022

Property : 12 Meetinghouse Drive, Tranent, East Lothian EH33 2HX (“Property”)

Parties:

Gavin McKenzie, 27 Jewel Gardens, Eskbank, Dalkeith EH22 3FQ (“Applicant”)

Rent Locally Ltd, Unit 1, 109 Swanston Road, Edinburgh EH10 7DS (“Applicant’s Representative”)

Lynda Blackwood and Robin Bradley, 12 Meetinghouse Drive, Tranent, East Lothian EH33 2HX (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined to make an order for possession of the Property.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Private Residential Tenancy Agreement which commenced on 20 February 2023; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 (“Act”) dated 20 April 2023 (“Notice to Leave”); notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003; copy letter from Deans Properties dated 21 June 2023 stating they had been instructed to market the Property once it was available to be sold and sheriff officer’s execution of service certifying service of the Application on 15 December 2023.

Case Management Discussion

A case management discussion (“CMD”) took place before the Tribunal on 7 February 2024 by teleconference. Carolyn Gourlay of the Applicant’s Representative was in attendance as were both Respondents.

The Tribunal noted that it had not had sight of proof of service of the section 11 notice or of the Notice to Leave. Ms Gourlay said that the section 11 notice was sent by email on 9 June 2023 and the Notice to Leave was sent by email on 20 April 2023. She said that she had seen a copy of the email to Ms Blackwood. She said it was also sent by post. Ms Blackwood said that she received the Notice to Leave by email on 20 April 2023. Ms Bradley said that the Notice to Leave was received by post and she did not have to sign for it. Initially she said she did not receive the Notice to Leave by email but having checked her emails she told the Tribunal she did receive the Notice to Leave by email on 20 April 2023.

As regards the question of reasonableness, Ms Gourlay said that the Applicant had a number of rental properties but had sold them all. He now wished to sell the Property as he could no longer afford the mortgage. She said that if the Property was not sold it would be repossessed.

Ms Blackwood told the Tribunal that she and Ms Bradley had nowhere else to go. Ms Bradley told the tribunal that she and her mother (Ms Blackwood) could not afford the private rented sector. She said they had contacted the local authority and had submitted a homelessness application. She said that she was in touch with Sarah Neilson in the homelessness unit. She said the Respondent had been bidding for houses regularly but they did not have enough points to give them any priority. She said she understood their priority status would change if they became homeless. She said that she and her mother were both working. She said that she and her mother lived alone in the Property.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Private Residential Tenancy Agreement for the Property which commenced on 20 February 2023.
2. A Notice to Leave was served on each Respondent by email on 20 April 2023. It stated that an application for an eviction order would not be submitted to the Tribunal before 17 July 2023.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 9 June 2023.
4. The Applicant holds title to the Property and is entitled to sell the Property.
5. The Applicant intends to sell the Property or at least put it up for sale within 3 months of the Respondent ceasing to occupy it.

Reasons for the Decision

In terms of section 51 of the Act, the Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

In the Application the Applicant stated that he sought recovery of possession of the Property on the basis set out in Ground 1 which is that the landlord intends to sell. The evidence lodged with the application of intention to sell was a copy of a letter from Deans Properties dated 21 June 2023 stating they had been instructed to market the Property once it was available to be sold. The Tribunal considered the evidence provided and determined that the ground for eviction had been established. The Tribunal considered the oral representations of the Applicant's Representative and of the Respondent and determined that it was reasonable to grant an order for eviction.

Decision

The Tribunal determined to grant an order for possession of the Property.

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.

**Joan Devine
Legal Member:**



Date : 7 February 2024