



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/23/3417

Re: Property at 45 Hillside, Houston, PA6 7NT (“the Property”)

Parties:

Mrs Khurshaid Bibi, 15 Bale Court, Glasgow, G72 6ZN (“the Applicant”)

Mr Sean Galbraith, Ms Elizabeth Kennedy, 45 Hillside, Houston, PA6 7NT (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 27th September 2023. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not adhering to ground 4 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 16th November 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 15th January 2024 at 10am by teleconferencing. The letter also requested all written representations be submitted by 7th December 2023.
3. On 17th November 2023, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 17th November 2023.

The Case Management Discussion

4. A CMD was held on 15th January 2024 at 10am by teleconferencing. The Applicant was not present but was represented by Mr Atif Ahmed, The Property Store. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondents did not make any representations in advance of the CMD.
5. Mr Ahmed said that the Applicant has been living with her son and daughter in law since 2005/2006. At that point they did not have children. Now they have at least two children. It is a two bedroom property. The pressure of the situation has led to strain on the relationship between the Applicant and her daughter in law. The Applicant now just wishes to return to living in her own property.
6. Mr Ahmed said that the Respondents have been excellent tenants. There have been no issues with the tenancy at all. The rent account is up to date. He spoke to the Respondents last month. They confirmed to him that they have approached their local housing association and local authority to be rehoused. He said that they have been told that this will not happen until such time as an order has been granted. Mr Ahmed said that there were no vulnerabilities in the household. The Respondents have grown children who are not dependents.
7. The Tribunal considered all the information before it and from this decided that it was reasonable to grant an order for eviction. The application is under the Cost of Living (Tenant Protection)(Scotland) Act 2022 which means that the Order is not enforceable until 31st March 2024.

Findings and reason for decision

8. A Private Rented Tenancy Agreement commenced 9th October 2019.
9. The Applicant is living with her son and his wife. They have at least two children. They all live in a two bedroom house. Being in overcrowded in this property has put the Applicant's relationship with her daughter in law under a great deal of strain. The Applicant wishes to return to her own property to live in it.
10. The Respondents have told Mr Ahmed that they wish to be allocated a new property by their local housing association or local authority but cannot be allocated a property until such time as an order has been granted against them.
11. There have been no issues with the Respondents during the tenancy. There are no arrears on the rent account.
12. There are no issues of reasonableness that prevent an order from being granted.

Decision

13. The Tribunal found that ground 4 has been established and granted an order in favour of the Applicant.

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.



15 January 2024

Legal Member/Chair

Date