

Housing and Property Chamber

First-tier Tribunal for Scotland



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/23/3465

Re: Property at 71 Ochil Terrace, Dunfermline, Fife, KY11 4BP (“the Property”)

Parties:

Mr Stewart Knapman, 36 Braemar Gardens, Dunfermline, Fife, KY11 8ER (“the Applicant”)

Miss Susan Brown, 71 Ochil Terrace, Dunfermline, Fife, KY11 4BP (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

D Fotheringham- Ordinary Member

Decision

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

Background

1. This Application, contained in papers lodged with the Tribunal, was brought in terms of Rule 109 (Application for an eviction order) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the 2017 Rules”).
2. The Applicant, Mr Knapman, had provided the Tribunal, in the Application, with copies of the parties’ Private Residential Tenancy Agreement (“the PRT”), the Notice to Leave served on the Respondent and the Section 11 (Homelessness Etc. (Scotland) Act 2003) Notice intimated to Fife Council. All of these documents and forms had been correctly and validly prepared in terms of the

provisions of the relevant legislation, and the procedures set out in the legislation had been correctly followed and applied.

3. The Respondent, Miss Brown, had been validly served by Sheriff Officers with the Notification, Application papers and Guidance Notes from the Tribunal on 15th January 2024, and the Certificate of Intimation was produced.

Case Management Discussion on 29th February 2024

4. A Case Management Discussion ("CMD") proceeded remotely by telephone conference call at 10.00am on 29th February 2024. The Applicant Mr Knapman and the Respondent Miss Brown attended.
5. Mr Knapman stated that he had been diagnosed with skin cancer in 2020 and his prognosis was life shortening. He said that he was due to retire soon from his job with Fife Council and that he wishes to sell the Property, and another property which he rents, in order to tidy up his financial affairs. Mr Knapman referred to the Application and in particular the solicitor's fees and outlays quotation and estate agent's quotation which he has had obtained in respect of his proposed sale of the Property. He said that both the Property and the other home which he rents were costing him monies every month given the shortfall between rent received and necessary outgoings, including mortgages. Mr Knapman stated that the Respondent, Miss Brown, had been a good tenant whose monthly rent was always paid timeously. He said that he liaises regularly with Miss Brown and is aware that she has applied for alternative, social housing for herself and her elderly mother and teenage son. Mr Knapman stated that he was content to agree a date for enforcement of an eviction order beyond that stipulated in the relevant legislation if this would be of assistance to Miss Brown.
6. Miss Brown joined the call late and after Mr Knapman had provided information about her circumstances to the Tribunal. Miss Brown stated that she has applied for a tenancy with Fife Council for herself and her 85 year old grandmother and 15 year old son. She stated that her grandmother suffers from COPD, glaucoma and other medical conditions and her son was diagnosed with autism last year. Miss Brown said that she is in employment. She said that she has been informed by Fife Council that when an eviction order is granted she, her grandmother and son will be given priority for a tenancy. She said that the local authority had advised her not to move out of the Property without such an order being granted as if she did so she would render herself intentionally homeless. Miss Brown stated that her intention is to move out of the Property as soon as she is offered another tenancy.
7. Mr Knapman and Miss Brown both stated that they want an eviction order to be granted and agreed that it would be helpful for an eviction order enforcement date of 1st May to be specified by the Tribunal. They agreed that such a date will hopefully provide Miss Brown with sufficient time to obtain a suitable

tenancy from her local authority. Miss Brown acknowledged that an eviction order could be enforced by Mr Knapman even if she has not yet obtained a new tenancy. Mr Knapman and Miss Brown each agreed that they would not wish this situation to arise. Mr Knapman also stated that he will approach Fife Housing Group to ascertain whether or not they may wish to purchase the Property with Miss Brown continuing as a tenant.

Statement of Reasons

8. In terms of Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act") the Tribunal is to issue an eviction order under a private residential tenancy if, on application by a landlord, it finds that one of the eviction grounds named in Schedule 3 applies.
9. Schedule 3 (1) (1) of the 2016 Act provides that it is an eviction ground that a landlord intends to sell the let property and confirms the criteria for the grant of an eviction order on this ground.
10. The Tribunal considered the Application papers, including the PRT, Notice to Leave and supporting papers. The Tribunal, in particular, considered the statements and submissions made by Mr Knapman and Miss Brown at the CMD. Having done so the Tribunal found in fact that Mr Knapman seeks recovery of the Property in order to sell it and found in law that Ground 1 in Schedule 3 to the 2016 Act is satisfied. Given that Mr Knapman and Miss Brown each seek the grant of an eviction order the Tribunal also found that it is reasonable to make such an order.

Decision

11. The Tribunal therefore makes an eviction order as sought in this Application.

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.

G McWilliams

29th February 2024

Tribunal Legal Member

Date

