



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 (Act)

Chamber Ref: FTS/HPC/EV/23/3690

Re: Property at 118 Main Street, Flat D, Thornliebank, Glasgow, G46 7RR (“the Property”)

Parties:

Mr Harry Campbell, 43 Annan Drive, Bearsden, Glasgow, G61 1FE (“the Applicant”)

Mr Omran Munawar, 118 Main Street, Flat D, Thornliebank, Glasgow, G46 7RR (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for eviction and recovery of possession be granted but that execution of the order be delayed until 30 April 2024.

This is an application under Rule 109 and section 51(1) of the Act in respect of the Applicants’ intention to sell the Property and for eviction and recovery of possession on Ground 1 of Schedule 3 to the Act.

The Tribunal had regard to the following documents lodged in advance of the Hearing:

1. Application received 18 October 2023;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 6 April 2018;
3. Notice to Leave dated and served by email on 31 May 2023;
4. Section 11 Notice and email serving on local authority dated 10 November 2023;
5. Confirmation of instruction of estate agents dated 1 October 2023;
6. Sheriff Officer certificate of service of CMD Notification on 1 February 2024.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 19 March 2024. The Applicant did not participate but was represented by his solicitor. The Respondent did participate and was accompanied by his wife.

The Respondent informed the Tribunal that he did not object to the application but that he was registered blind and concerned about obtaining alternative accommodation. He explained that he was also diabetic, lived in the Property with his wife and was on benefits. He would prefer to be given until end of April 2024 to try and obtain alternative housing.

The Respondent has been in contact with the local authority and has an allocated caseworker. He has been told that the local authority can't do anything for him until an order is granted.

The Respondent is suspicious that the Applicant may want the order so as to let the Property at a higher market rent.

The Applicant's solicitor informed the Tribunal that he intended to sell the Property in order to realise the capital and use it to help fund the purchase of a Property for himself and his wife. He had previously lived in the Property but had moved in with his wife when they married in 2012. He has engaged estate agents to act on his behalf.

The property he lives in with his wife is owned solely by her. The intention is to sell both Properties to fund a joint purchase.

The Applicant's solicitor did not have any instructions regarding a potential delay in execution of an order.

Decision and Reasons

The Tribunal considered the oral and documentary evidence from the Parties.

Having heard from the Parties the Tribunal had regard to the terms of Ground 1:

Landlord intends to sell

1(1) It is an eviction ground that the landlord intends to sell the let property.

(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord—

(a) is entitled to sell the let property,

(b) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and

(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—

(a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,

(b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under section 98 of the Housing (Scotland) Act 2006 were the property already on the market.

In so far as material the Tribunal made the following findings in fact:

1. The Parties let the subjects under a PRTA commencing 6 April 2018;
2. Notice to Leave had been served on 31 May 2023;
3. Section 11 Notice had been served on the local authority on 10 November 2023;
4. The Applicant is the owner of the Property and intends to sell it or at least put it up for sale within 3 months of the Respondent ceasing to occupy it;
5. The Applicant has instructed estate agents to market and sell the Property;
6. The Applicant requires to recover possession of the Property to sell it and realise the capital for to purchase a Property jointly for himself and his wife to live in;
7. The Respondent did not oppose the eviction order and was in contact with the local authority regarding the provision of suitable alternative accommodation for himself and his wife.

The Tribunal considered all of the evidence and submissions.

The Tribunal were satisfied that Ground 1 had been established and complied with.

The Tribunal were aware that it had to be satisfied that it was reasonable in the circumstances to grant the order sought. The Tribunal determined that it would be reasonable to grant the order sought in the circumstances.

The Respondent did not oppose the order and was in contact with the local authority regarding the provision of suitable alternate accommodation.

The Tribunal considered the Respondent's request to delay execution of any order to the end of April to be reasonable. It was only a delay of around 11 days.

The Applicant needed to sell the Property to jointly fund the purchase of a Property for himself and his wife to live in.

The Tribunal granted the application for eviction and recovery of possession subject to the delay in execution of such order until 30 April 2024.

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.

19 March 2024

Legal Member/Chair

Date