



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

Reference number: FTS/HPC/EV/23/4128

Order granted on 23 April 2024.

Re: Property at 2A Park Place, Perth, PH2 0HL (“the Property”)

Parties:

Craig and Sandra Nicoll, residing together at 28 Viewlands Terrace, Perth PH1 1BZ (“the Applicant”)

Ms Nicole Reid, residing at 2A Park Place, Perth, PH2 0HL (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)
Sandra Brydon (Ordinary member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) makes an order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 1 of schedule 3 to the 2016 Act.

Background

The Applicant sought recovery of possession of the Property in terms of Section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 (the "2016 Act"). On 17 November 2023 the Applicant lodged Form E with the Tribunal. The documents produced were a Tenancy Agreement (which commenced on 24/06/2022); a Notice to Leave served on 08/08/2023, and a Notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003. A copy title sheet was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 10.00am on 23 April 2024. The Applicant was represented by Ms K Hallgarth-Myles of PKC Lets. The respondent was present and not represented.

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 on 24 June 2022.
2. The lease commenced on 24/06/2022. The rent in terms of the Tenancy Agreement was £475 per month.
3. On 8 August 2023 the Applicant served a Notice to Leave on the Respondent. The Applicant wants to sell the Property.
4. Prior to November 2023, the Applicant instructed Possible, estate agents, to market the Property for sale.
5. On 17 November 2023, the Applicant submitted their application to the tribunal.
6. The Respondent does not oppose the application. She has already made an application to the local authority for alternative housing. The local authority will not prioritise her application for housing until an order for eviction is granted. The local authority will give the respondent's application for housing priority when an eviction order is made.
7. This is the only rental property the Applicant owns. The property is burdened with a mortgage. The mortgage term is at an end and the heritable creditor is demanding repayment. The applicant is not able to arrange alternative finance. They have to sell the property to pay the heritable creditor and redeem the mortgage.
8. The respondent occupies the property with her 13 year old child. They are both in good health. The respondent and her child are able to accept an offer of standard accommodation from the local authority.

Reasons for the Decision

9. We balance the interests of the parties. The applicant is forced to sell the property because the term of their mortgage is at an end and the heritable creditor demands repayment. The Respondent does not offer opposition to the application.

10. The Applicant seeks recovery of possession of the Property in terms of Ground 1 of part 1 of schedule 3 to the 2016 Act. On the facts as we find them to be, the Applicant

(a) is entitled to sell the let property,

(b) intends to sell the Property for market value 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.

11. The weight of reliable evidence indicates that it is reasonable to grant an order for repossession of the Property.

12. The Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016. The basis for possession set out in Ground 1 of part 1 of schedule 3 to the 2016 Act is established. The Respondent offers no defence to the application. For these reasons, the Tribunal determined to grant an Order for possession.

Decision

For the foregoing reasons, the Tribunal determined to make an Order for possession of the Property in terms of section 51(1) of the Private Housing (Tenancies)(Scotland) Act 2016 under Ground 1 of part 1 of schedule 3 to the 2016 Act.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.



Paul Doyle
Legal Member

23 April 2024

