



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 and Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”)

Chamber Reference number: FTS/HPC/EV/23/2696

Property: 0/2, 93 Barrland Street, Pollokshields, Glasgow, G41 1RH

Parties:

**Mr E Anthony Kerr, 150 Newton Road, Great Barr, Birmingham, West Midlands, B32 6BU
 (“the Applicant”)**

**1-2-Let (Lettings and Sales) Glasgow, 104 Bellgrove Street, Glasgow, G31 1AA
 (“the Applicant’s Representative”)**

Mr Waheed Din, 0/2, 93 Barrland Street, Pollokshields, Glasgow, G41 1RH (“the Respondent”)

Tribunal Members:

**Ms. Susanne Tanner K.C. (Legal Member)
 Mrs. Helen Barclay (Ordinary Member)**

Decision

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

(1) was satisfied that Ground 1 in Schedule 3, Part 1 to the 2016 Act was established by the Applicant, in that on the day the tribunal considered the application for an eviction on its merits: the Landlord intends to sell the Let Property for market value, or at least put it up for sale within three months of the Respondent ceasing to occupy it; and that it was reasonable to make an eviction order in the circumstances; and made an order for eviction in terms of Section 51 of the 2016 Act;

(2) The decision of the tribunal was unanimous.

Statement of Reasons

Procedural Background

1. The Applicant's Representative made an application to the tribunal on 8 August 2023 in terms of Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act") and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 ("the 2017 Rules").
2. The Applicant's Representative provided the following documents in support of the amended Application:
 - 2.1. Copy Private Residential tenancy agreement;
 - 2.2. Notice to Leave dated 12 May 2023, with email attachment dated 10 May 2023; and
 - 2.3. Section 11 Notice with proof of service.
3. The tribunal's administration obtained a copy of the Title Sheet for the Property which showed the Applicant is the registered proprietor of the Property.
4. Further information was requested by the tribunal from the Applicant's Representative and they provided:
 - 4.1. Proof of service of Notice to Leave by email dated 12 May 2023.
5. The application was accepted for determination and the tribunal sent letters of notification to all parties with the date, time and arrangements for joining the Case Management Discussion ("CMD") in relation to the Application. The Application paperwork was personally served on the Respondent by Sheriff Officers on 12 March 2024.
6. The Respondent did not submit any opposition or defence to the Application or make any contact with the tribunal following service of the Application paperwork and notification.

CMD: 18 April 2024, 1000h, Teleconference

7. Ms Paris Rechy attended from the Applicant's Representative.
8. The Respondent did not attend the CMD or make any contact with the tribunal's administration.
9. The tribunal decided to proceed with the eviction application in the absence of the Respondent. The tribunal was satisfied that the requirements of rule 24(1) of the

2017 Rules regarding the giving of notice of a CMD had been duly complied with and proceeded with the Application upon the representations of the party present and all the material before it.

10. Ms Rechy is seeking an eviction order. She said that the original joint tenancy started on 19 February 2014. Mr Din's wife vacated the Property and he became the sole tenant. A new Private Residential Tenancy lease was created which began on 1 July 2021. She understands that the Respondent lives alone and does not think that there are any children staying there with him. There is a guarantor for this tenancy.
11. The Notice to Leave was sent to the Respondent by the Applicant's Representative on 12 May 2023. It was sent to the given email address on the tenancy agreement. They also sent a copy of an email from the Applicant to the repairs team at the Applicant's Representative dated 10 May, in which he stated his intention to sell the Property and asked for confirmation of instructions from the Applicant's Representative's sales team.
12. In response to a question from the tribunal, Ms Rechy said that she had sent a reply to the Applicant's email which she could produce during the CMD. She said that the Sales team at the Applicant's Representative have given the Applicant a valuation of the property for sale. They did offer it to landlords to try to keep the tenant in there. Ms Rechy produced a copy of an email response sent to the Applicant on 11 May 2024 and an attachment. The tribunal accepted it as additional supporting evidence for the Application. Ms Rechy confirmed that she has discussed matters with the Applicant and he intends to market the property for sale within three months of getting vacant possession. He intends to redecorate. This is the Applicant's only rental property.
13. The tribunal adjourned to consider the Application, the additional documents and the Applicant's Representative's submissions. The email states:

"My manager will issue the notice to your tenant to vacate the property, to sell the property there is a marketing fee of £195.00 which covers the advertising and viewings of the property plus a 1% fee of the sale price which is payable upon completion. The home report is carried out by a surveyor whose fee is paid directly to them depending on the home report value. I have attached our sales agreement to this email with more details on pricing and services included. If you have any further questions, please do not hesitate to contact me."

A Sales Agreement was also attached.

14. The tribunal makes the following findings-in-fact:

- 14.1. The Applicant is the registered proprietor of the Property.
- 14.2. There is a private residential tenancy agreement between the Applicant and the Respondent for the Property which started on 1 July 2021.
- 14.3. On 12 May 2023, a Notice to Leave containing ground 1 of Schedule 3 to the 2016 Act was served on the Respondent.
- 14.4. Supporting evidence was attached to the Notice to Leave, namely an email from the Applicant to his representatives dated 10 May 2023, confirming his instruction to issue notice to leave on the basis of his intention to sell the Property.
- 14.5. The Applicant has given the Respondent at least 84 days' notice that he requires possession.
- 14.6. The Application to the tribunal was made on 8 August 2023.
- 14.7. The Applicant intends to sell the Property on the open market or at least market it for sale within three months of vacant possession.
- 14.8. The Applicant wishes to redecorate the property and sell the Property with vacant possession to achieve a higher value.
- 14.9. The Property is the Applicant's only let property.
- 14.10. The Respondent has not opposed the eviction order.
- 14.11. The Respondent's tenancy is a sole tenancy.

15. Findings in fact and law

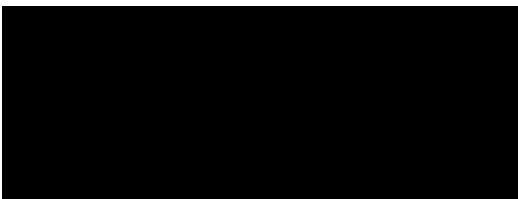
- 15.1. The tribunal is satisfied that the facts required in paragraph 1 of Schedule 3 to the 2016 Act have been established.
- 15.2. The tribunal is satisfied that it is reasonable to make an order for eviction.

Discussion

16. The order for eviction is sought in terms of Section 51 and paragraph 1 of Schedule 3 to the 2016 Act. The tribunal was satisfied that the requirements of those provisions have been met.
17. In relation to reasonableness, reference is made to the tribunal's findings in fact. The Respondent is a sole tenant in the Property. He has not opposed the eviction application or made any submissions. Notice to Leave was served in May 2023. He has made no contact with the tribunal since the service of the Application paperwork and notice of the CMD on 12 March 2024. This is the Applicant's only let property. He wishes to redecorate the property and sell it with vacant possession to get a higher value.
18. The tribunal was satisfied that it was reasonable to evict the Respondent in the circumstances of the case.

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.



18 April 2024

Legal Member/Chair