



Decision 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/23/4129

Re: Property at 16 Robertson Avenue, Prestonpans, EH32 9AL (“the Property”)

Parties:

Ms Jurgita Friis-Jorgensen, Estrada Municipal, u537 Coixa Postal 921K 8600-210, Portugal (“the Applicant”)

Ms Elaine Winters, Mr Stuart Thompson, 16 Robertson Avenue, Prestonpans, EH32 9AL (“the Respondents”)

Tribunal Members:

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

Decision (in absence of the Respondents)

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 14th April 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 ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 15th March 2024, all parties were written to with the date for the Case Management Discussion (“CMD”) of 25th April 2024 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 5th April 2024.

3. On 4th April 2024, sheriff officers served the letter with notice of the CMD date and documentation upon both of the Respondents by letterbox service. This was evidenced by Certificate of Intimation dated 4th April 2024.

The Case Management Discussion

4. A CMD was held on 25th April 2024 at 2pm by teleconferencing. The Applicant was not present but was represented by Mrs Claire Bunce, Head of Lettings, Northwood Edinburgh and Mr Steven Miller, Northwood Edinburgh. 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. Mrs Bunce told the Tribunal that she last heard from Mrs Winters in the week prior to the CMD. Mrs Winters was asking about her rent arrears as she had believed that her Universal Credit was covering the rent charge. The arrears are currently £3360.31. There seems to have been a problem in the transition from Housing Benefit to Universal Credit Housing Element. Mrs Bunce said that she did not believe that the full amount of the rent charge will be paid by the local authority. Mrs Winters is now in the Property on her own.
6. Mrs Bunce said that the Applicant owns other properties which she intends to sell. One property is the centre of a CMD on the day following this CMD. The Applicant wanted to assess the success of these CMDs before proceeding to sell her other 3 properties. Mrs Bunce and Mr Miller told the Tribunal that it is still believed that Mrs Winters lives in the Property. Mr Thompson was offered a new property by the local authority and moved into it. Mrs Winters remained in this Property. The Property was visited 6 weeks ago. It appeared that only the living room was being lived in. The Property was in a very poor condition due to the way that it has been inhabited. There are regularly reports of many broken items. The front UPV door was kicked until it was broken. The smoke alarms are constantly being taken down. Mr Miller said that there was no way that this Property could be sold with a sitting tenant due to the continuous poor care that is taken of the Property. The Applicant will sell once she has vacant possession.
7. The Tribunal queried if the local authority have been involved. Mrs Bunce said that she has been in touch with the local authority but does not have any information in terms of housing. She thinks that Mrs Winters may not be co operating with the local authority.
8. Mrs Bunce said that the Applicant has health concerns which require hospital treatment. She no longer wishes to be a landlord which is why she is now

serving notices upon her tenants. Mr Miller explained that the Properties are managed by a letting agent but that the tenants in the Properties are not diligent tenants which puts further stress on the Applicant.

Findings and reason for decision

9. A Private Rented Tenancy Agreement commenced 1st April 2020.
10. The Respondents have persistently failed to pay their rent charge of £1106.77 per month. The rent payments are due to be paid on the first day of each month.
11. The Property was found to be in a poor condition when the letting agents visited it within the last 6 weeks.
12. The Applicant intends to sell the Property. It is not practical to sell the Property with a sitting tenant given the condition of the Property.
13. The Applicant has health issues which have contributed to her not wanting to continue as a landlord.
14. There are no issues of reasonableness that prevent an order from being granted.

Decision

15. The Tribunal found that ground 1 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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons

for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.



G.Miller

Legal Member/Chair

25th April 2024

Date