



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/23/2765

Re: Property at 1 Parkdale Way, Glasgow, G53 7ZJ (“the Property”)

Parties:

Mr Sufian Ai-Zaidy, Lets Be Smart LTD, 8 Glenmuir Crescent, Glasgow, G53 6QE; 38 Albert Road, Glasgow, G53 6QE (“the Applicant”)

Mr Rafid Abdulhusein G Al-Maliki, 1 Parkdale Way, Glasgow, G53 7ZJ and Agnieszka Al-Maliki, present whereabouts unknown (“the Respondents”)

Tribunal Members:

Richard Mill (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order be granted against the Respondents for payment to the Applicant of the Sum of Twenty One Thousand Pounds (£21,000)

Introduction

1. These are linked applications between the same parties. The first application seeks an eviction order and is under Rule 109 and Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The second application seeks a payment order relating to arrears of rent and is under Rule 111 and Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. Service of the applications and intimation of the Case Management Discussions (CMDs) was effected by Sheriff Officers on the respondents on 11 December 2023. However the first named respondent has not lived in the property since March 2023. The CMD hearing in both cases took place on 31 January 2024 at 10.00 am. The first respondent became aware of the proceedings and both of the respondents joined the CMD personally and represented their own interests. The first respondent undertook to provide the tribunal administration with her contact details for the purposes of intimation of further relevant matters

in these proceedings, but she failed to do so. She is however fully aware of both applications. Further, service by advertisement took place for the purposes of the final hearing on 5 June 2024.

3. The applicant was represented by Scott Stephenson of Clarity Simplicity Solicitors. The respondents both joined the hearing (separately) and represented their own interests.

Findings and Reasons

4. The tribunal relied upon the entirety of the documentary evidence which was found to be credible and reliable. The applicant resides in Qatar. He was unable to give oral evidence as the Government of Qatar did not provide consent to do so. His evidence was provided in the form of affidavits.
5. The property is 1 Parkdale Way, Glasgow G53 7ZJ. The applicant is Mr Sufian Ai-Zaidy who is the heritable proprietor and registered landlord of the property. The respondents are Mr Rafid Abdulhussein and G Al-Maliki and Agnieszka Al-Maliki who are the tenants.
6. A private residential tenancy was entered into between the parties which commenced on 20 March 2021. The rent stipulated was £1,500 per calendar month.
7. The eviction application is founded upon ground 4, contained within Part 1, Schedule 3 to the 2016 Act. This eviction ground applies if the landlord intends to occupy the let property as his only or principal home for at least 3 months.
8. The tribunal found that the notice to leave upon which the eviction application proceeds is valid. It is dated 7 December 2022. This states that an application will not be submitted to the tribunal for an eviction before 7 March 2023. The relevant notice period at the time that was served as one of 84 days. The deemed 2 day period for service has been rebutted. The notice to leave was personally served at the respondents' address at their request.
9. The applicant purchased the property in 2021. He is married and has four children. He and his wife are currently staying in Qatar. They have four children. They are all in the UK, two are in Nottingham and two are in Preston. The family wish to reunite and live together in the let property.
10. The applicant is employed as a temporary mathematics teacher on a yearly contract based in Qatar. His salary aligns with the UK teacher salary scale. His two eldest sons have now finished high school and have applied to universities and colleges in Glasgow as this is the city where they were born. Their applications have been vouched. They now intend to study, live and work permanently in Glasgow. Glasgow has always been the family home and thus the applicant, his wife and children, all intend to live there permanently. They had ventured abroad to broaden their horizons but the intention was always to return to Glasgow. The applicant has now depleted all his savings. He is

continuing more current and temporary contracts. The applicant has remained in Qatar as he has nowhere else to live in the UK. He is currently having to spend £1,400 on rent himself.

11. The tribunal was satisfied that the applicant (and his family) does have the genuine intention to occupy the let property on a permanent basis and for more than the requisite 3 month period. The tribunal therefore found ground 4 established.
12. The applicant also seeks to recover outstanding rent arrears. At the time that the application was submitted to the tribunal in August 2023, the sum of £7,500 was outstanding. As a consequence of a Rule 14A amendment application, the applicant now seeks to recover the total sum of £21,000 in rent arrears. An up to date rent statement has been produced to establish these arrears.
13. The first respondent did not formally extinguish her interest in the tenancy when she left. She is jointly and severally liable for the rent arrears. The second respondent had earlier stated that not all the claimed rent was due but has never set out with any clarity what the basis of this is and he has produced no documentary evidence in support of his position. The first respondent does not support his position. The tribunal had no doubt that rent arrears of £21,000 is due.
14. The second applicant is receiving the sum of £700 monthly directly in housing benefit but is not remitting this to the applicant. He is spending the money on other expenditure.
15. The applicant is entitled to recover arrears of rent lawfully due under and in terms of the lease. He is entitled to a payment order in the sum of £21,000. No application for a time to pay direction has been made. No application for the application for interest was made at the time of application or since.
16. The tribunal proceeded to consider the reasonableness of making the eviction order sought having established ground 4.
17. It is unreasonable for the applicant to continue to make the property available in the absence of rent being paid. The respondents have no intention of making rental payments and have made no offer to pay any of the arrears. The amount outstanding is significant and continuing to rise.
18. The first respondent no longer lives in the let property and has no intention of returning to live there. The second respondent is a single man who continues to reside in the let property which has five bedrooms. He is not paying rent. He stated that he is living with his two adult sons who are 18 and 21. He stated that he has a number of health problems but these are not vouched.
19. The applicant's family consists of seven family members. This incorporates the applicant, his wife, his four children and his elderly mother who is 74 years of age. They require the let property to live in and be reunited.

20. There is evidence that the local authority has been advised of the eviction proceedings with a relevant section 11 notice having been issued by the applicant. In the event of an eviction order being granted the local authority has an obligation to make alternative accommodation available.

21. In all of the circumstances, the tribunal determined it was reasonable to grant the eviction order sought by 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.

Richard Mill

5 June 2024

Legal Member/Chair

Date