



Decision with Statement of Reasons 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/23/2897

Property : 28 Lady Anne Court, Crossgates, Dunfermline, Fife KY4 8BX ("Property")

Parties:

Alan Sambridge, Central Taillifts, Bois Bridge, North Road, Inverkeithing, Fife KY11 1HQ ("Applicant")

Rollos Law LLP, 67 Crossgate, Cupar, Fife KY15 5AS ("Applicant's Representative")

Walter Loftus, 28 Lady Anne Court, Crossgates, Dunfermline, Fife KY4 8BX ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined to make an order for possession of the Property.

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Tenancy Agreement which commenced on 1 August 2018; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 ("Act") dated 10 May 2023 ("Notice to Leave"); Royal Mail proof of delivery of the Notice to Leave on 11 May 2023; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email; copy letter from Rollos Law LLP dated 10 May 2023 stating they had been instructed to market the Property and sheriff officer's execution of service certifying service of the Application on 3 January 2024.

Case Management Discussion

A case management discussion ("CMD") took place before the Tribunal on 20 May 2024 by teleconference. Dorka Ilonka of the Applicant's Representative was in attendance as was the Respondent.

Mr Loftus told the Tribunal that he did not oppose the application and understood that the Applicant intended to sell the Property with him as a sitting tenant. Ms Ilonka said that the Applicant owned 5/6 rental properties and had decided to sell them all and exit the rental market. She said he had considered selling with tenants in situ but was not able to progress that. Ms Ilonka said that the Applicant wished to sell due to the stress and rising interest rates. She said that the rent for the Property is £550 / month and the mortgage is £681.88 /month. She said on top of that the Applicant has insurance and gas cover. She said he makes a loss of around £170 per month.

Mr Loftus told the Tribunal that he needed time to find a new property. He said that he had suffered a stroke in February which had left him with a disability. He said that mobility and balance are an issue. He said he is supported by a stroke nurse and a physiotherapist. He said he now receives attendance allowance. Mr Loftus told the Tribunal that he needs a property that is all on one level. He said that the Property is a semi-detached property with a flight of stairs. He said the toilet is on the upper level. He said that if he was to stay in the Property the local authority would install a stair lift. Mr Loftus told the Tribunal that he is 73 years old and is retired.

Mr Loftus told the Tribunal that he had been in touch with Fife Council about alternative accommodation but there was currently nothing available. He said that he was registered with two housing associations. He said that his age and disability had given him extra points although he did not know what his current points are.

The Tribunal adjourned briefly to discuss matters. On reconvening Ms Ilonka said she had spoken with the Applicant who was open to delaying enforcement of any order granted.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property which commenced on 1 August 2018.
2. A Notice to Leave was served on the Respondent by recorded delivery post on 11 May 2023. It stated that an application for an eviction order would not be submitted to the Tribunal before 14 August 2023.

3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 21 August 2023.
4. The Applicant holds title to the Property and is entitled to sell the Property.
5. The Applicant intends to sell the Property or at least put it up for sale within 3 months of the Respondent ceasing to occupy it.

Reasons for the Decision

In terms of section 51 of the Act, the Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

In the Application the Applicant stated that he sought recovery of possession of the Property on the basis set out in Ground 1 which is that the landlord intends to sell. The evidence lodged with the application of intention to sell was a copy of a letter from Rollos Law LLP dated 10 May 2023 stating they had been instructed to market the Property to be sold. The Tribunal considered the evidence provided along with the submission from the Applicant's Representative and determined that the ground for eviction had been established. The Tribunal considered the oral representations of the Applicant's Representative and the Respondent and determined that it was reasonable to grant an order for eviction but to delay enforcement until 31 July 2024 to allow the Respondent time to identify alternative accommodation.

Decision

The Tribunal determined to grant an order for possession of the Property but to delay enforcement until 31 July 2024 in terms of Rule 16A(d).

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.

J Devine

**Joan Devine
Legal Member**

Date : 20 May 2024