



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 (“The Act”)

Chamber Ref: FTS/HPC/EV/23/4553

Re: Property at 2 Andrew Court, Penicuik, EH26 0HR (“the Property”)

Parties:

Mr Colin Easton, Mrs Susan Easton, 44 Eskhill, Penicuik, EH26 8DG (“the Applicant”)

Ms Kristy Porteous, 2 Andrew Court, Penicuik, EH26 0HR (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Sandra Brydon (Ordinary Member)

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made an Eviction Order.

Background

[2] The Applicant seeks an Eviction Order under Ground 1 and Ground 1A of Schedule 3 of the Act. The Application is accompanied by a copy of the relevant tenancy agreement; the relevant notice to leave with proof of service; evidence of the reasons as to why the Applicant wishes to sell the Property and the relevant notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003.

The Case Management Discussion

[3] The Application called for a Case Management Discussion (CMD) by conference call at 2pm on 1 May 2024. The Applicants were represented by their solicitor, Mr Calvin Gordon. The Respondent was present together with her brother, Mr David Porteous as her representative. Neither party had any preliminary matters to raise.

[4] The Tribunal was addressed on the Application by the Applicant and heard the Respondent’s position. The Respondent actually herself wished to leave the Property and had only remained because she would not be offered support by the relevant local authority until such time as an Eviction Order had been granted. The

Tribunal carefully considered the reasonableness or otherwise of granting the Application. Having done so, the Tribunal made the following findings in fact.

Findings in Fact

- I. The Applicants let the Property to the Respondent by virtue of a Private Residential Tenancy Agreement within the meaning of the Act;*
- II. The Applicants competently served a notice to leave on the Respondent under ground 1 and ground 1A of Schedule 3 of the Act. The Applicants wish to sell the Property because they have both been diagnosed with very serious health conditions. The term loan of the mortgage is also now due to expire and they are unable to repay the sum due. They require to sell the Property to alleviate financial hardship;*
- III. The Applicant has served the requisite notice under Section 11 of the Homelessness (etc) (Scotland) Act 2003;*
- IV. The Respondent has engaged with the Tribunal process and receives advice and support from her brother and sister. She suffers from poor mental health. She wishes to leave the Property but requires an official Eviction Order before she would be assisted to find alternate accommodation by the local authority.*

V.

Reasons for Decision

[5] Having made the above findings in fact, the Tribunal found that the ground relied upon was established and that it was reasonable to make an Eviction Order. The Tribunal therefore granted the Application.

[6] The Tribunal was asked by Mr Gordon to dispense with the period of charge in the charge for removing in accordance with section 216(4) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 and the period of notice in the notice of date of removal in accordance with rule 41C(3).

[7] The Tribunal considered this matter carefully. The Tribunal declined to make the order further sought. It seemed to the Tribunal that the Respondent was quite vulnerable and hers was exactly the sort of situation that required service of a charge for removal before an Eviction could be effected. The Tribunal considered that step as a vital in allowing a tenant of limited financial means an opportunity to find alternate accommodation with dignity and without the threat of facing homelessness. The Tribunal was unwilling on this occasion to interfere with that requirement.

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.



A. McLaughlin

1 May 2024

Legal Member