



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section of the Housing (Scotland) Act 1988 (“the 1988 Act”) and Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/EV/23/4643

Re: Property at 18 Laxton Drive, Lenzie, Glasgow, G66 5LR (“the Property”)

Parties:

Sil Property Ltd, 29 Lonmay Place, Glasgow, G33 4ER (“the Applicant”)

Ms Jane Gallacher (Formerly Reid), 18 Laxton Drive, Lenzie, Glasgow, G66 5LR (“the Respondent”)

Tribunal Members:

Lesley-Anne Mulholland (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for the order for possession should be granted.

1. This is an application under Section 33 of the Housing (Scotland) Act 1988 (“the Act”) for possession of the Property on termination of a Short Assured Tenancy. The application was made in terms of Rule 66 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”). Supporting documentation was submitted with the application, including a copy of the Tenancy Agreement, AT5, Notice to Quit, Section 33 Notice and Section 11 Notice to the local authority.
2. The Applicant is the Landlord and owner of the property. The Respondent is the Tenant.
3. A two-member Case Management Discussion (CMD) took place at 2pm on 20 May 2024 by teleconference. The Applicant’s Representative, Mr Morrison

joined the hearing. The Respondent attended and was represented by Mr Heath.

4. Mr Morrison asked that an Order for Eviction be granted. The Respondent has been given sufficient notice since October 2023. The Landlord is making a loss on the property. The rent payment has not been increased since 2015. The Respondent pays £700 per calendar month. The cost-of-living crisis and the increase in interest rates over the last 18 months means that it is no longer viable to keep the property. The value of the property is £250,000 and to have a mortgage on this property would cost £22,490 per annum whereas the Respondent pays rent totaling £8,400 per annum. The shortfall is unsustainable.
5. The Respondent referred to the submission which provides reasons why it would not be reasonable to grant the order for possession/ eviction. The Respondent has three adult children, 2 two of whom continue to live within the property, and two dogs. One of the children who lives there is at university and working part time at weekends and the other is in receipt of disability benefits and has ASD.
6. The Respondent works part time (20 hours per week) and has looked for other work to increase her hours but has not been successful despite looking for more than six months. She has approached the local authority who have informed her that they have a duty under the homeless persons legislation to provide a roof over her head but they cannot say what type of accommodation she may be given at this stage. There is a shortage of accommodation, suitable to her needs, and it may be that she is required to go into temporary accommodation which could be in a house or a flat but could also be in bed and breakfast.
7. The Respondent has looked for suitable alternative accommodation and cannot afford the rents for other properties of a similar size to the one that she occupies at present. She works nearby.
8. Having considered all of the information individually and together, we were satisfied that a Short-Assured Tenancy does not give the Respondent the right to remain in the property. The tenancy has been brought to a lawful end. It would not be reasonable to expect the landlord to continue to make a loss to allow the Respondent to remain in the property without limit of time. No indication was given as to how long the Respondent would need to find suitable alternative accommodation.
9. The Local Authority has a duty to find suitable alternative accommodation and will not do so whilst the Respondent remains in the property. The Applicant has already waited a considerable period of time to recover the property. The Respondent has had sufficient notice to find suitable alternative accommodation.

10. The Respondent is seeking alternative accommodation through her local authority and has already applied to them and other housing Associations. The local authority are aware of the Respondent's family circumstances and housing needs and the housing application will be progressed once the outcome of the Tribunal application is known.
11. In all of the circumstances, we considered that the likely impact on the Respondent of granting the eviction order was outweighed by the impact on the Applicant were the order not to be granted. The Tribunal was therefore satisfied that it was reasonable to grant the order.
12. Accordingly, we decided to grant the Order for Eviction.

Decision

An Order for Eviction is granted.

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.

L. A. Mulholland

20 May 2024
