



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) Act 2016

Chamber Ref: FTS/HPC/EV/24/0552

Re: Property at 1/R 192 Strathmartine Road, Dundee, DD3 8DG (“the Property”)

Parties:

Mr Anthony Ablett, 4 Beach Tower, Ralston Road, Dundee, DD5 1NQ (“the Applicant”)

Ms Jordana Ogilvie, 1/R 192 Strathmartine Road, Dundee, DD3 8DG (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for eviction.

Background

1. By application dated 1 February 2024 the applicant seeks an order for eviction, relying on ground 1 (landlord intends to sell the house) in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016. The application was heard alongside a second application between the parties in respect of an order for payment under reference FTS/HPC/CV/0553.
2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Notice to Leave
 - Proof of delivery of notice to leave

- Rent accounts for the duration of the tenancy
- Notice under section 11 of the Homelessness Etc. (Scotland) Act 2003
- Letter from the Chamber Practice solicitors re sale of the property

Case management discussion (“cmd”) – teleconference – 10 June 2024

3. The applicant was in attendance. The respondent was not present or represented. The Tribunal was satisfied that the respondent had received proper notice of the cmd and proceeded with the cmd in her absence in terms of rule 29.
4. The applicant sought an order for eviction relying on ground 1. The applicant referred to a letter which had been lodged from the Chamber Practice solicitors. This confirmed that he had instructed them in relation to the marketing and sale of the property. The letter was dated 31 January 2024. The letter was evidence of the applicant’s intention to sell the property. The applicant advised that he was a landlord of ten properties. He had made the decision to sell almost all of the properties in the next few years. He explained that he had owned another flat in the same building which had also been rented out. This had already been sold.
5. The applicant referred to a rent account which had been lodged which showed that rent arrears as at the date of the application amounted to £2543. He stated that a section 11 notice had been sent to the local authority. The applicant stated that he had made contact with the tenant after the notice to leave had been served. She had advised him that she was looking for alternative accommodation with the local authority. The applicant advised that the tenant resided alone in the property.

Findings in fact

6. Parties entered into a private rented tenancy agreement with a commencement date of 21 March 2019.
7. Monthly rent payable in respect of the tenancy is £370
8. As at the date of the hearing outstanding rent arrears amounted to £2543
9. The applicant has instructed the Chamber Practice to market the property for sale.

10. The applicant intends to sell the property.
11. The respondent has not lodged a written defence to the application and has not entered into the present process.

Reasons for the decision

1. The Tribunal had regard to the application and the documents lodged by the applicant.
2. Ground 1 states:

1 Landlord intends to sell

(1) It is an eviction ground that the landlord intends to sell the let property.

(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if the landlord—

(a) is entitled to sell the let property,

(b) intends to sell it for market value, or at least put it up for sale, within 3 months of the tenant ceasing to occupy it, and

(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.

(3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(b) includes (for example)—

(a) a letter of engagement from a solicitor or estate agent concerning the sale of the let property,

(b) a recently prepared document that anyone responsible for marketing the let property would be required to possess under [section 98](#) of the [Housing \(Scotland\) Act 2006](#) were the property already on the market.

3. The Tribunal was satisfied that the applicant owned the property and intended to sell the property. The Tribunal took into account that the applicant had evidenced that intention by producing a letter of engagement from a solicitor

concerning the sale of the property. The Tribunal proceeded to consider whether it was reasonable to issue an eviction order.

4. The Tribunal gave weight to the fact that the respondent did not seek to defend the action. The Tribunal gave weight to the fact that arrears were increasing due to non-payment of rent and had been £2543 at the date the application had been lodged. The respondent was not paying the ongoing rent. The Tribunal took into account that the respondent resided alone in the property.
- Taking all the above factors into account the Tribunal determined that it was reasonable to grant an order for eviction.

Decision

The Tribunal determined to grant an order for eviction.

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.

Mary-Claire Kelly

Legal Member/Chair

10th June 2024
Date