



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

Chamber Ref: FTS/HPC/EV/23/4347

Re: Property at 17 Arroll Drive, Dumfries, DG1 1UD (“the Property”)

Parties:

Ms Lynn Robertson, Summer Bank, Main Road, Locharbriggs, Dumfries, DG1 1RY (“the Applicant”)

Mrs Debra Burrows, Mr Benjamin Burrows, 17 Arroll Drive, Dumfries, DG1 1UD (“the Respondent”)

Tribunal Members:

Lesley-Anne Mulholland (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant the Applicant an Order for Possession against the Respondents.

Summary of Discussion

1. This is an application under Section 51(1) of the Private Housing (Scotland) Act 2016 for an Order for Eviction on the basis that the Applicant intends to sell the property for market value, or at least put it up for sale, within 3 months of the Tenants ceasing to occupy it.
2. The Applicant is the Landlord and owner of the property. The Respondents are the Tenants.
3. A two-member Case Management Discussion (CMD) took place at 2pm on 17 May 2024 by teleconference. The Applicant’s Representative, Mr Whitelaw joined the hearing. The Respondents attended and represented themselves.
4. Mr Whitelaw asked that an Order for Eviction be granted. The Respondents have been given sufficient notice since 17 August 2023 and the application for an order for

eviction was raised on 30 November 2023. The Landlord intends to sell the property for financial reasons.

5. The Respondents informed us that they have been operating a window cleaning business which requires use of electricity, a tap and off road parking. They have approached the local authority who have been trying to look for accommodation suitable to their personal and business needs but have let them know that by law they are only required to ensure that they have a roof over their heads. They will be allocated temporary accommodation to provide shelter. They fear that they may lose their business if their home cannot meet their business needs.
6. Mrs. Burrows suffers from poor mental health and this issue has caused a lot of stress. They have looked for suitable alternative accommodation in the private rental sector however the monthly rent is unaffordable. As such they require to go down the social housing route but this leaves them in the predicament that they may lose their business.
7. Having considered all of the information individually and together, we were satisfied that the Private Residential Tenancy Agreement does not provide the right to run a business from the property. A commercial lease has not been granted. The only issue for us to decide is whether the Landlord intends to sell the property. We have no information before us to call the Applicant's account into question and accordingly we accept it.
8. The Applicant has already waited a considerable period of time to recover the property. The Respondents have had sufficient notice to find suitable alternative accommodation. The Applicant needs to sell the property for financial reasons.
9. 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.

17 May 2024
