



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/24/0013

Re: Property at 76 Hazel Road, Banknock, Stirlingshire, FK4 1LQ (“the Property”)

Parties:

Miss Lisa Shaw, 39 Auchinloch Drive, Banknock, Stirlingshire, FK4 1LQ (“the Applicant”)

Miss Amanda Malasko, 76 Hazel Road, Banknock, Stirlingshire, FK4 1LQ (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

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 January 2024 the applicant seeks an order for eviction on ground 1 in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016 – the landlord intends to sell the property.
2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Notice to leave dated 8 October 2023
 - Copy correspondence between the applicant and the respondent
 - Copy correspondence relating to the applicant’s mortgage arrangements.

3. A case management discussion (“cmd”) was assigned for 18 June 2024.

Case management discussion – teleconference – 18 June 2024

4. Both parties were in attendance. The applicant sought an order for eviction on the ground that she intended to sell the property. The respondent explained that she had sought advice from the local authority after she received the notice to leave from the applicant. She explained that she lived with her 14 year old son. The local authority had advised her that she should remain in the property and should seek assistance after an order for eviction was granted. They explained that if an order was granted this would enable her to apply for assistance under homelessness legislation as someone who was unintentionally made homeless. On that basis she explained that she did not seek to oppose an order for eviction.
5. The applicant stated that the respondent had moved into the tenancy on 1 September 2020. The rent had been £425 per calendar month. The applicant had a fixed price mortgage which came to an end in October 2023. Due to the increase in interest rates the cost of the mortgage increased by £105 per month. In addition there were other increased expenses such as insurance and repairs which meant that it was no longer sustainable for her continue renting out the property. The applicant was unable to increase the rent to a sustainable level due to the cap on rent increases. As a result she had made the decision to sell the property. She had started carrying out works to place the property in a good condition for sale and had engaged the services of an estate agent.
6. The respondent did not dispute that the applicant intended to sell the property.

Findings in fact

7. Parties entered into a private residential tenancy agreement with a commencement date of 1 September 2020.
8. The rent payable in respect of the tenancy is £425.
9. Due to increases mortgage payments and other expenses associated with the tenancy the applicant intends to sell the property.

Reasons for the decision

10. The Tribunal had regard to the application and the documents lodged by the applicant. The Tribunal also took into account oral submissions at the cmd.

11. 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 subparagraph (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.

12. The Tribunal accepted the unopposed evidence of the applicant that she intended to sell the property.

13. In relation to reasonableness the Tribunal gave weight to the fact that the respondent did not seek to defend the application and that she was seeking alternative accommodation. The Tribunal also took into account that the applicant had stated that it was no longer affordable for her to remain owner of the property due to increased costs which were outwith her control.

14. In the foregoing circumstances the Tribunal considered it reasonable to grant an order.

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.



Legal Member/Chair

Date: 18 June 2024