



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/EV/24/0038

Re: Property at 5 Forties Crescent, Regent Park, Glasgow, G46 8JS (“the Property”)

Parties:

Dr Wan Hock Cheah, 19 Glenpark Avenue, Glasgow, G46 7JE (“the Applicant”)

Ms Amanda Smith, 5 Forties Crescent, Regent Park, Glasgow, G46 8JS (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

BACKGROUND

1. By lease dated 28 July 2018 the Applicant let the Property to the Respondent.
2. The tenancy agreement was an assured lease agreement. It was accepted by the Applicant, however, that it required to be considered as a private residential tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016.
3. The Applicant served a Notice to Leave upon the Respondent intimating he wished to recover vacant possession as it was his intention to sell the Property.

4. A Notice in terms of s11 of the Homelessness Etc. (Scotland) Act 2003 was intimated to the Local Authority.
5. The Applicant thereafter presented an Application to the Tribunal seeking an Order for Eviction.
6. The Applicant provided proof of his intention to sell the Property.

THE CASE MANAGEMENT DISCUSSION

7. A Case Management Discussion was assigned to be held by teleconference at 11.30am on 8 July 2024. Both parties participated personally.
8. The Applicant moved the Tribunal to grant an order for eviction. He advised the Tribunal that he has been letting properties for 45 years. He has 10 properties which are let out by him. He is now, however, winding up his letting business and wishes to sell the properties.
9. The Applicant is 79 years of age. He has undergone heart bypass surgery. He has health problems. He does not “want to leave a mess for my wife”.
10. The Applicant advised that he has tended to deal with any issues arising at his various properties personally but is now at a stage in his life where he does not feel able to continue to do so. This is the first property in relation to which he has presented an application to the Tribunal but it is his intention to sell all of his rental properties.
11. The Respondent advised that she “can’t oppose” the application but she was unhappy about the manner in which Dr Cheah had gone about things.
12. The Tribunal pointed out to the Respondent that she was entitled to oppose the application if she considered that to be appropriate and the Tribunal did require to consider whether it was reasonable in the circumstances for an order for eviction to be granted.
13. Miss Smith advised the Tribunal that she was upset that Dr Cheah did not contact her face to face to discuss his intentions. Communications between them had been by way of text message rather than by direct conversation. She thought that was disgraceful as she has been a good tenant for a period of six years.
14. She lives with two grown up children, a son aged 30 years and a daughter aged 22 years. She herself is 54 years of age. She works part time. She has no health issues which are relevant to the issue the Tribunal requires to determine.
15. The Property is a two bedroom property. She sleeps in the living room of the Property with her grown up children using the bedrooms.

16. She has already been in contact with Glasgow City Council and Shelter for assistance in securing alternative accommodation. She has been advised by Glasgow City Council that once an eviction order is granted a homeless application will then be processed. Ideally, she would wish a three-bedroom property. It may be that she and her children will require to be housed separately. She would wish to avoid that as the children lost their father five years ago and she does not wish them to be separated from herself if that can be avoided.
17. The Respondent again pointed out that she has been at the Property for six years. She was advised by the Applicant when she initially rented it that she would never need to look for another place for her to reside in.
18. The Tribunal again clarified whether she wished to oppose the application. She confirmed she did not wish to do so. She did not understand why this property had been selected by Dr Cheah as the first one to sell. She is aware (and Dr Cheah confirmed) that he has another property which is let out to her brother in law. She wondered why that one was not being sold first.
19. The Respondent again expressed unhappiness about the way in which Dr Cheah had gone about things, including his decision to sell this property first but she again confirmed, however, that she did not oppose the application.

REASONS FOR DECISION

20. The issue for the Tribunal to determine, essentially, was whether it was reasonable to grant an eviction order at all. In considering that matter, the Tribunal took account of the fact the Respondent did not oppose the application.
21. The Applicant is 79 years of age. He has undergone significant surgery recently. He has ongoing health issues. His desire to wind up his letting business is understandable having regard to this age and his health.
22. In relation to the Respondent, she did not oppose the Application, although being unhappy about the manner in which Dr Cheah had gone about things. She is a grown, adult female, in employment with no health issues. She has two adult children. The Property, in fact, appears to be too small for the family unit.
23. The Respondent has already been engaging with the local authority and other organisations to secure suitable alternative accommodation. The Notice to Leave was served as far back as October 2023 so she has had ample time to take advice and make provisional arrangements in that regard.
24. In the circumstances, the Tribunal considered that it was reasonable for an eviction order to be granted.

25. Discussion did take place about deferring the date of enforcement. The Tribunal, after considering the matter, decided not to defer the date of enforcement. The Respondent has already been engaging with appropriate authorities to secure alternative accommodation. The Applicant advised that he would be willing to be reasonable in his dealings with the Respondent provided rent was paid on an ongoing basis. In the circumstances, the Tribunal did not consider there to be any good reason to defer the date of enforcement.

DECISION

The Tribunal granted an order against the Respondent for eviction of the Respondent from the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016, under ground 1 of Schedule 3 to said Act.

Order not to be executed prior to 12 noon on 14 August 2024.

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.

V Crawford

8 July 2024

Legal Member/Chair

Date