



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/24/0168

Property : 26 Finlaggan Terrace, Dundee DD4 9JR (“Property”)

Parties:

Scott Robertson and Vikki Robertson, 9 Ballumbie Meadows, Dundee DD4 OUL (“Applicant”)

MML Law, Meadowplace Building, Bell Street, Dundee DD1 1EJ (“Applicant’s Representative”)

Jacqui Turnbull, 26 Finlaggan Terrace, Dundee DD4 9JR (“Respondent”)

Dundee Law Centre, 163 Albert Street, Dundee DD4 6PX (“Respondent’s Representative”)

Tribunal Members:

Joan Devine (Legal Member)

Gerard Darroch (Ordinary Member)

Decision

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

Background

The Applicant sought recovery of possession of the Property. The Applicant had lodged Form E. The documents produced were: Tenancy Agreement which commenced on 26 April 2019; Notice to Leave under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 (“Act”) dated 16 August 2023 (“Notice to Leave”); copy letter to the Respondent dated 17 August 2023 enclosing the Notice to Leave; royal mail proof of delivery on 18 August 2023; notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email dated 12 January 2024; copy engagement documentation from MML Law regarding the sale of the Property dated 11 August 2023 and sheriff officer’s execution of service certifying service of the Application on 7 June 2024.

Case Management Discussion

A case management discussion ("CMD") took place before the Tribunal on 9 July 2024 by teleconference. In advance the Applicant's Representative lodged a written submission. The Applicant was represented by Darren Bell of the Applicant's Representative. The Respondent was represented by Colette Goodson of the Respondent's Representative.

Mr Bell told the Tribunal that the Applicant intends to sell the Property. He said that they do not own other rental properties and that they intend to sell the Property for financial reasons. He said they have never made a profit on the rent received. He said that the Applicants have two dependent children still at home and have not received rent for the Property since August 2023. He said that the arrears are £4200. Ms Goodson said that the Respondent understands the Applicant's position regarding selling the Property. She said the Respondent is working with her regarding a housing application which has been submitted to the local authority. She said that the Respondent lives in the Property with her 15 year old daughter.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property which commenced on 26 April 2019.
2. A Notice to Leave was served on the Respondent by recorded delivery post on 18 August 2023. It stated that an application for an eviction order would not be submitted to the Tribunal before 15 November 2023.
3. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 on 12 January 2024.
4. The Applicant holds title to the Property and is entitled to sell the Property.
5. The Applicant intends to sell the Property or at least put it up for sale within 3 months of the Respondent ceasing to occupy it.

Reasons for the Decision

In terms of section 51 of the Act, the Tribunal is to issue an eviction order against the tenant under a private residential tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies.

In the Application the Applicant stated that they sought recovery of possession of the Property on the basis set out in Ground 1 which is that the landlord intends to sell. The

evidence lodged with the application of intention to sell was copy engagement documentation from MML Law regarding the sale of the Property dated 11 August 2023. The Tribunal considered the evidence provided and determined that the ground for eviction had been established. The Tribunal considered the question of reasonableness and the oral submissions from Mr Bell and Ms Goodson. The Tribunal determined that, in all the circumstances, it was reasonable to grant an order for eviction

Decision

The Tribunal determined to grant an order for possession of the Property.

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.

J Devine

Legal Member: 

Date : 9 July 2024