



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/24/0600

Re: Property at 36 Strathclyde Gardens, Cambuslang, G72 7ET (“the Property”)

Parties:

Paul Emmerson, Jill Emmerson, 30 Phoenix Drive, Watlingbury, Maidstone, ME18 5DR (“the Applicant”)

Angela Robertson, Brendan Cavin, 36 Strathclyde Gardens, Cambuslang, G72 7ET (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for recovery and possession should be granted in favour of the Applicant.

Background

1. An application was received by the Housing and Property Chamber dated 7th February 2024. The application was submitted under Rule 109 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on ground 1 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. On 20th May 2024, all parties were written to with the date for the Case Management Discussion (“CMD”) of 25th June 2024 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 10th June 2024.

3. On 22nd May 2024, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 22nd May 2024.

The Case Management Discussion

4. A CMD was held on 25th June 2024 at 2pm by teleconferencing. The Applicant was represented by Ms Alexandra Wooley, Solicitor, Bannatyne Kirkwood France &Co. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. Neither Respondent made any representations in advance of the CMD.
5. Ms Wooley told the Tribunal that the Applicants own this property and the property that they live in. They wish to sell the Property as the changed in cost of the Property has meant that they are making a loss each month of £225. They can no longer afford to continue to be landlords for this property. Ms Wooley said that the First Named Respondent, Ms Angela Robertson, had emailed on 17th June 2024 to say that she has moved out of the Property. Ms Wooley is treating this as her notice period. Ms Wooley said that there are less than one months rent arrears attached to the account. The rent arrears are not a part of the decision to sell the Property. Ms Wooley said that selling the Property with a sitting tenant is not an option. It greatly limits the market and the price which can be obtained.
6. Ms Wooley said that the Respondents do not have any dependents. The Second Named Respondent is believed to be in employment. Apart from the email on 17th June 2024, there has been no other correspondence from the Respondents.
7. The Tribunal was satisfied that it was appropriate to grant an order for eviction.

Findings and reason for decision

8. A Private Rented Tenancy Agreement commenced 8th September 2018.
9. The Applicants are making a loss each month of £225 because of the rising costs of owning the Property.
10. The Applicants wish to sell the Property. It is not a viable option to sell the Property with a sitting tenant.
11. There are no issues of reasonableness that prevent an order from being granted.

Decision

12. The Tribunal found that ground 1 has been established and granted an order in favour of the Applicant.

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.

G Miller

Legal Member/Chair

Date 25th June 2024